

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX

LIBERTY-PITTSBURGH SYSTEMS, INC.

and

Case 06-CA-074733

UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY,
ALLIED INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION, AFL-CIO, CLC
LOCAL 14034-34

MOTION FOR DEFAULT JUDGMENT

Counsel for the Acting General Counsel, pursuant to Sections 102.24, 102.26 and 102.50 of the Board's Rules and Regulations, Series 8, as amended, makes this Motion to transfer this case to the Board and to grant default judgment against Liberty-Pittsburgh Systems, Inc., herein called Respondent, based on the pleadings and related documents which accompany this Motion. In support of this Motion, Counsel for the Acting General Counsel submits because Respondent failed to file any Answer to the Complaint and Notice of Hearing issued, all allegations of the Complaint should be deemed to be true and so found by the Board as to Respondent without the necessity of a hearing. In support of this Motion, Counsel for the Acting General Counsel further submits that the pleadings raise no material issues of either fact or law, and states the following:

1. On May 31, 2012, a Complaint and Notice of Hearing, a copy of which is attached hereto as Exhibit A, issued in the instant matter alleging that Respondent had engaged in unfair labor practices affecting commerce within the meaning of Sections 8(a)(1) and (5) and Sections 2(6) and (7) of the Act by ceasing to pay health care benefits to bargaining unit

employees, refusing to meet to discuss pending grievances, refusing to meet and bargain for a successor collective bargaining agreement, and refusing to meet and bargain over the effects of the closure of Respondent's business.

2. A true and correct copy of the Complaint and Notice of Hearing was duly served by certified mail upon Respondent on May 31, 2012.

3. In the Complaint and Notice of Hearing, Respondent was advised that pursuant to Section 102.20 and 102.21 of the Board's Rules and Regulations, an Answer was due by June 14, 2012, and that any failure to deny the allegations of the Complaint in the manner required under the Board's Rules and Regulations could result in a determination that the allegations of the Complaint were true.

4. As Respondent failed to file any Answer to the Complaint or to serve any Answer upon the Charging Party, the Acting Regional Attorney for Region Six of the National Labor Relations Board, by letter dated June 19, 2012, and served by certified mail, again advised Respondent of the obligation to file an Answer under Sections 102.20 of the Board's Rules and Regulations. A copy of the letter is attached hereto and marked as Exhibit B. In her letter, the Acting Regional Attorney further advised that unless an Answer was filed, a final judgment would be requested from the Board.

5. To date, no Answer or request for extension of time to file an Answer has been received from Respondent.

WHEREFORE, Counsel for the Acting General Counsel respectfully requests the following:

- A. That the Board grant this Motion for Default Judgment,
- B. That all allegations in the Complaint be deemed to be admitted to be true; and
- C. That Respondent be found to have violated Section 8(a)(1) and (5) of the Act in the manner alleged in the Complaint without the taking of evidence in support of the allegations of

the Complaint and that an appropriate remedial Order issue. See, e.g., Malik Roofing Corporation, 338 NLRB 930 (2003).

Dated at Pittsburgh, Pennsylvania, this 2nd day of July, 2012.

Respectfully submitted,



Julie R. Stern
Counsel for the Acting General Counsel

National Labor Relations Board, Region Six
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Attachments

UNITED STATES OF AMERICA
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REGION SIX

LIBERTY-PITTSBURGH SYSTEMS, INC.

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Case 06-CA-074733

UNITED STEEL, PAPER AND FORESTRY,
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INTERNATIONAL UNION, AFL-CIO, CLC
LOCAL 14034-34

COMPLAINT AND NOTICE OF HEARING

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union, AFL-CIO, CLC Local 14034-34, herein called the Local Union, has charged that Liberty-Pittsburgh Systems, Inc., herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Section 151 et seq., herein called the Act. Based thereon the Acting General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge in this proceeding was filed by the Local Union on February 17, 2012, and a copy was served by mail on Respondent on February 17, 2012.
- (b) The first amended charge in this proceeding was filed by the Local Union on April 10, 2012, and a copy was served by mail on Respondent on April 10, 2012.
- (c) The second amended charge in this proceeding was filed by the Local Union on May 16, 2012, and a copy was served by mail on Respondent on May 17, 2012.

2. At all material times Respondent, a Delaware corporation, with an office and place of business in Pittsburgh, Pennsylvania, herein called Respondent's facility, has been engaged in the business of manufacturing tags for the dry cleaning industry.

3. During the 12-month period ending January 31, 2012, Respondent, in conducting its business operations described above in paragraph 2, purchased and received at its Pittsburgh, Pennsylvania, facility goods valued in excess of \$50,000 directly from points outside the Commonwealth of Pennsylvania.

4. During the 12-month period ending January 31, 2012, Respondent, in conducting its business operations described above in paragraph 2, sold and shipped from its Pittsburgh, Pennsylvania facility goods valued in excess of \$50,000 directly to points outside the Commonwealth of Pennsylvania.

5. At all material times Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

6. (a) At all material times United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC, herein called the International Union, has been a labor organization within the meaning of Section 2(5) of the Act.

(b) At all material times, the Local Union has been a labor organization within the meaning of Section 2(5) of the Act.

7. At all material times the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Kevin Weir	-	Operations Manager
Beryl Zyskind	-	Owner
Tony Alaimo	-	Supervisor

8. At all material times, the International Union has been the designated exclusive collective-bargaining representative of certain employees of Respondent, hereinafter called "the Unit," and has been recognized as such representative by Respondent. Such recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms from May 1, 2006 to April 30, 2009.

9. The Unit, as set forth in the collective-bargaining agreement described above in paragraph 8, constitutes an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

10. At all material times, the International Union, by virtue of Section 9(a) of the Act, has been, and is, the exclusive representative of the Unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

11. Since on or about November 1, 2011, Respondent ceased providing health insurance benefits to the Unit.

12. (a) On or about February 21, March 14 and March 27, 2012, the Union requested that Respondent bargain collectively about the possible cessation of Respondent's operations.

(b) Since about February 21, 2012, Respondent has failed and refused to bargain collectively about the subject set forth above in paragraph 12(a).

13. The subjects set forth above in paragraphs 11 and 12 relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

14. Respondent engaged in the conduct described above in paragraph 11 without prior notice to the Union, without affording the Union an opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct, and without first bargaining with the Union to a good-faith impasse.

15. At various times during the months of December 2011 and January 2012, Respondent and the Union met for the purposes of negotiating a successor collective-bargaining agreement to the agreement described above in paragraph 8.

16. During the period described above in paragraph 15, Respondent engaged in the following conduct:

(a) cancelled meetings scheduled in December 2011 and on January 3, 2012;

(b) limited the meeting times on January 14, 2012, and on about February 2, 2012, to one hour and refused to discuss substantive issues during the meeting;

(c) refused to respond to the Union's questions about plant closure.

17. (a) On October 26, 2011, the Union filed a grievance concerning its contention that a supervisor was performing bargaining unit work.

(b) On December 19, 2011, the Union filed a grievance concerning Respondent's failure to provide health insurance benefits to the Unit as required by terms of the collective bargaining agreement described above in paragraph 8.

18. (a) Since on about October 26, 2011, Respondent has refused to respond to the grievance filed by the Union as described above in paragraph 17(a).

(b) Since on about December 19, 2011, Respondent has refused to respond to the grievance filed by the Union as described above in paragraph 17(b).

(c) The subjects set forth above in paragraphs 17(a) and 17(b) relate to the wages, hours and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

19. By its overall conduct, including the conduct described above in paragraphs 16 and 18, Respondent has failed and refused to bargain in good faith with the Union as the exclusive collective-bargaining representative of the Unit.

20. By the conduct described above in paragraphs 11, 12(b), 14, 16, 18 and 19, Respondent has been failing and refusing to bargain collectively and in good faith with the

exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

21. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for the unfair labor practices alleged in paragraph 11, the Acting General Counsel seeks an order requiring Respondent to make whole any employee who may be adversely affected by Respondent's changes implemented in their terms and conditions of employment. The Acting General Counsel further seeks such relief as may be appropriate to remedy the unfair labor practices alleged and is just and proper.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before June 14, 2012, or postmarked on or before June 13, 2012.** Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. To file electronically, go to <http://www.nlr.gov>, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed

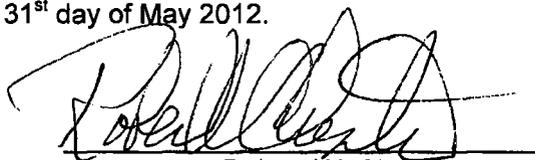
electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must still be accomplished in conformance with the Requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE that on July 11, 2012, at 10:00 a.m., at the William S. Moorhead Federal Building, 1000 Liberty Avenue, Room 904, Pittsburgh, Pennsylvania, and on consecutive days thereafter until concluded, a hearing will be conducted before an Administrative Law Judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Pittsburgh, Pennsylvania, this 31st day of May 2012.



Robert W. Chester
Regional Director, Region Six

NATIONAL LABOR RELATIONS BOARD
William S. Moorhead Federal Building
1000 Liberty Avenue, Room 904
Pittsburgh, Pennsylvania 15222

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case: 06-CA-074733

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponement **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b);
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; **and**
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

ASHER FENSTERHEIM, ESQUIRE
660 WHITE PLAINS RD, SUITE 520
TARRYTOWN, NY 10591-5139

LIBERTY-PITTSBURGH SYSTEMS, INC.
3498 GRAND AVE
PITTSBURGH, PA 15225-1508

AMANDA M. FISHER, ASSISTANT GENERAL COUNSEL
UNITED STEEL, PAPER AND FORESTRY, RUBBER,
MANUFACTURING, ENERGY, ALLIED INDUSTRIAL
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**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD
BEFORE THE NATIONAL LABOR RELATIONS BOARD
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

(OVER)



United States Government
NATIONAL LABOR RELATIONS BOARD
REGION 6

William S. Moorhead Federal Building
1000 Liberty Avenue, Room 904
Pittsburgh, PA 15222-4111

Telephone: (412) 395-4400
Fax: (412) 395-5986
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June 19, 2012

Re: Liberty-Pittsburgh Systems, Inc.
Case 6-CA-074733

Asher Fensterheim, Esquire
660 White Plains Road, Suite 520
Tarrytown, NY 10591-5139

Liberty-Pittsburgh Systems, Inc.
3498 Grand Avenue
Pittsburgh, PA 15225-1508

Gentlemen:

This is to notify you that Respondent's Answer due on June 14, 2012, has not been filed in accordance with Section 102.54 of the Board's Rules and Regulations and Statements of Procedure, Series 8, as amended. Unless an Answer is received in this office from Respondent by the close of business on the third business day following receipt of this letter, or unless an extension of time for filing the Answer has been granted pursuant to Section 102.56 of the Board's Rules and Regulations, a Motion for Summary Judgment will be filed with the Board.

Very truly yours,

Suzanne Bernett
Acting Regional Attorney

CERTIFIED MAIL

cp