

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

PARAGON SYSTEMS, INC.

and

Case 5-CA-70962

UNITED UNION OF SECURITY GUARDS

Brendan Keough, Esq., of Baltimore, MD,
for the Acting General Counsel.
Lawrence J. Sherman, Esq. of Washington, DC,
for the Charging Party.
Roman Gumul, Director of Labor Relations,
of Herndon, VA, for the Respondent-Employer.

DECISION

Statement of the Case

Bruce D. Rosenstein, Administrative Law Judge. This case was tried before me on June 19 and 20, 2012, in Baltimore, MD, pursuant to a Complaint and Notice of Hearing issued by the Regional Director for Region 5 of the National Labor Relations Board (the Board). The complaint, based upon a charge filed on December 19, 2011¹ by United Union of Security Guards (the Charging Party or Union), alleges that Paragon Systems, Inc. (the Respondent or Employer), has engaged in certain violations of Section 8(a)(1) and (3) of the National Labor Relations Act (the Act). The Respondent filed a timely answer to the complaint denying that it had committed any violations of the Act.

Issues

The complaint alleges that the Respondent violated Section 8(a)(1) and (3) of the Act when it suspended and thereafter terminated employee Marshall Callier for engaging in protected concerted and or union activities.

¹ All dates are in 2011 unless otherwise indicated.

On the entire record², including my observation of the demeanor of the witnesses, and after considering the briefs filed by the Acting General Counsel,³ the Respondent, and the position statement of the Charging Party, I make the following

5

Findings of Fact

I. Jurisdiction

10

Respondent, a Alabama corporation with an office and place of business located in Woodlawn, Maryland, has been engaged in the business of providing security services to agencies of the United States government including the Social Security Administration (SSA), at facilities in various states including the State of Maryland. Respondent, in conducting its business operations provided services to the United States Government valued in excess of \$50,000 and provided to entities other than the SSA facility, located outside the State of Alabama, goods and services valued in excess of \$50,000. Respondent admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

15

20

II. Alleged Unfair Labor Practices

A. Background

25

At all material times, the Union has been the designated exclusive collective bargaining representative of the Unit, and since on or about May 30, 2008, has been recognized as the representative by Respondent. This recognition has been embodied in successive collective-bargaining agreements and extensions, the most recent of which is effective through March 31, 2013.

30

At all material times, Jan Bryan Nance has held the position of Respondent's Contract Manager at the SSA Main complex under a contract with the SSA. William Swann has served as the Site Manager for the Security West complex, Captain Sean Ector serves as his assistant, and Melinda King has held the position of Sergeant/Lead Officer.⁴ Keith Cloud is the Director of

35

² During the hearing, the Acting General Counsel moved to amend the complaint to include a chain of command Employer Handbook rule that prevented employees from contacting third party representatives without supervisory approval. I denied the Motion for the reasons set forth in the record (TR 6, 207-210, and 216-219). Under *Cab Associates*, cited by the Acting General Counsel in its post hearing brief, I find that a lack of notice was provided to the Respondent regarding the amendment. Additionally, while Board Rules under Section 102.17 permit complaint amendments "upon terms that may seem just"; the trial judge has wide discretion whether to approve the amendment. *Las Palmas Medical Center*, 358 NLRB No. 54 fn.1 (2012).

40

45

³ For good cause shown, the Motion of the Acting General Counsel to Strike Portions of Respondent's Brief to the Administrative Law Judge is granted. In this regard, the Respondent did not introduce into the record the documents that it cites and relies upon in its Post Hearing Brief.

50

⁴ The Acting General Counsel has alleged that King is a supervisor and agent within the meaning of Section 2(11) and (13) of the Act. The Respondent has denied the allegation in its answer. While the record establishes that King assigned and scheduled work during periods relevant to the complaint allegations and Ector confirmed King's supervisory status, it is not

Continued

the Office of Personnel, Safety and Security for SSA and Mark Bunch is the contracting officer's technical representative for SSA and Nance's direct client liaison.

5 The Woodlawn complex is comprised of 375 acres and houses approximately 15,000 SSA employees. The Respondent employs approximately 474 security guards who engage in patrolling and providing security throughout the complex on a 24/7 hour basis. Nance has overall responsibility for the supervision of Respondent's employees with assistance provided by three site managers and a number of Captains, Lieutenants and Sergeants.

10 Callier has been employed as a security guard at the Respondent since January 2002, and routinely has worked the second shift (5:30 a.m. to 2:00 p.m.). With the exception of one disciplinary infraction in 2006, he has had an exemplary employment record including receiving a gift certificate in March 2011. Callier, since July 2011, has held the position of Union
15 Regional Vice President and is responsible for overseeing the terms and conditions of employment of approximately 800 security guards located in the District of Columbia, Virginia, and a number of counties in the State of Maryland. He participated in collective bargaining negotiations as a representative of the Union both before and after his termination on October 13, 2011.

20 B. The 8(a)(1) and (3) Allegations

The Acting General Counsel alleges in paragraphs 6 through 8 of the complaint that on or about September 27, Callier engaged in protected concerted activity by discussing and
25 disputing employees' wages, hours, and working conditions. On that same day, the Respondent suspended Callier pending an investigation and on or about October 13, the Respondent terminated his employment. The Acting General Counsel asserts that Respondent engaged in the above conduct because Callier assisted the Union and engaged in protected concerted activities.

30 The Respondent defends its conduct by asserting that it suspended and thereafter terminated Callier because he falsified government records.

Facts

35 Callier, since March 2011, has been assigned permanently to Post 28 and patrols on a daily basis from that location in and around the Tower parking area and garage, South Drive and the DR West parking lot. Prior to September 27, there were no written Post Orders as Post 28 was a roving post. By memorandum dated September 27 to all personnel, Swann directed that security officers assigned to Post 28 should patrol DR West parking in its entirety from the
40 stream line to Traffic Post # 11 corner up to Post # 13 (GC Exh. 7). Therefore, the Post 28 assigned security officer would no longer patrol the Tower parking area and garage.

45 On September 23, Callier went to Swann's office to lodge a complaint against King. He apprised Swann that he has received complaints from other officers about the manner in which King spoke to them and that she maintains a hostile work environment for the security officers. Swann said that other employees had also complained to him about King, and he opined that

50

 necessary to make a finding as to her supervisory or agent status as King did not participate in the decision to suspend or terminate Callier.

perhaps he has placed too much responsibility on her. Swann promised to talk with King to address the situation.

5 Later that day, Swann and Ector met with King and apprised her of the concerns that Callier and other security officers had raised about her demeanor when speaking to and giving them work assignments. King informed Swann that perhaps she is a little terse with people but she denied being disrespectful or threatening. Swann requested King to be more aware of her demeanor when talking to the security officers so her message would not be misunderstood. After the meeting, Swann met with Callier and informed him that he had discussed his concerns with King, and he was confident that the security officers concerns would end (R Exh. 5 and 8).
10

On September 27, in the morning, Callier as part of a routine car inspection found a gasoline container in the trunk of an SSA employee's automobile. Callier and another security guard prohibited the SSA employee from parking in the Tower garage because of the flammable liquid found in the trunk. King was summoned to the location and overruled Callier and the other security guard and permitted the employee to park in the garage due to having a permit to do so. Callier informed Ector of this event around 8:35 a.m. on September 27.
15

On September 27, around 10:00 a.m., Callier received a radio message from Dispatcher Linda Cousins that he was authorized to take his 30 minute lunch break. The practice at the Respondent is to utilize a breaker security guard to relieve other guards who are scheduled for their lunch break. For this purpose, Security Officer Wilbert Faison was designated to relieve Callier (GC Exh. 4). Callier left his post and proceeded to the control center to sign out and begin his lunch break (GC Exh. 4). After consuming a quick lunch in the break room he proceeded to the seventh floor of the Tower building to speak with an SSA employee of authority to lodge a complaint about the hostile work environment of the security guards experienced from King's supervision including using profanity and talking down to them. He ultimately was referred to SSA Branch Manager Theresa Menefee and arrived at her office around 10:15 a.m. Menefee listened to his concerns, that lasted around 8-10 minutes, and at 12:43 p.m. sent an e-mail to Cloud summarizing her conversation with Callier (GC Exh.6). By e-mail dated September 27 at 1:00 p.m, Cloud forwarded the Menefee summary of her meeting with Callier to Nance and stated, "Please engage on this, SSA should not be involved in this type of inappropriate contacts". At 1:08 p.m., Nance sent the e-mail string from Menefee and Cloud to Vice President of Human Resources Megan Bittenbender and Director of Human Resources Nicole Ferritto. He stated, "Please see the statement below from an SSA manager regarding the on duty conduct of a guard. This is prohibited by the CBA. I want to suspend him immediately pending investigation. Please get back to me right away" (GC Exh. 6). By return e-mail at 1:29 p.m., Bittenbender informed Nance "that we cannot suspend him for this; he was making a complaint about his working conditions. You need to bring him in and find out what the exact allegation is against the supervisor and investigate. You can let him know that complaints should be brought forward to Paragon rather than the client, as the client is not their employer. He should not be disciplined, just advised of the proper channels".
20
25
30
35
40

Callier, after talking with Menefee, proceeded back to the control center and signed in on SSA Form 4072 at 10:30 a.m. signifying that he was back on duty (GC Exh. 4). Callier saw and briefly spoke with Faison in the control center around 10:30 a.m., when they both signed the required 4072 Form, a fact confirmed by Faison in his testimony.
45

Callier left the control center walking past the loading dock, and while he was inspecting the Tower parking garage, called into the control center and spoke with Cousins to apprise her he had completed the inspection of the garage parking area. Upon exiting the parking garage, Callier headed toward the South drive area and passed Post 24. He saw Swan and King driving
50

in a mobile unit and he conversed with Swann briefly who instructed him to continue his rounds, a fact confirmed by the testimony of security guard and Chief Union Steward Walter McCullen who observed and heard the conversation from a distance of approximately 15 feet. McCullen also stated that he heard Swann ask Callier why he was under the Tower, and Callier replied that he always patrolled that area. McCullen further stated that he saw Callier patrolling the Tower garage area and briefly spoke with him around 10:35 a.m. on September 27. Callier informed McCullen that he had just met with an SSA official about the security officer's concerns with the supervision of King. McCullen also testified that he did not see the memorandum (GC Exh. 7) regarding Post Order changes impacting Post 28 until around 2:30 p.m. on September 27 when he was in the control center. McCullen, Faison, and Security Officer Danville Gooden all confirmed that prior to the issuance of the Post 28 patrol change memorandum there were never written Orders for Post 28. McCullen further stated that when he was assigned to Post 28 between 2008 and 2011, he patrolled the same route as Callier without objection from any supervisor.

Callier worked the remainder of his shift on September 27 and returned to the control center at 2 p.m. Upon arriving at the control center he was instructed to proceed to Swann's office. He immediately went to Swann's office and was met by Swann and Ector who instructed Callier to go to the main complex to meet with Nance. Callier was joined by McCullen, and they proceeded to meet with Nance around 2:20 p.m. in his office conference room.

During the course of the meeting, that lasted about 15-20 minutes, Nance asked Callier to explain where he was around 10:30 a.m. Callier replied that he was on break at that time. Nance inquired where he was and Callier replied that he was on the 7th floor of the Security West building to complain about King. Nance asked Callier who he went to see and Callier replied he did not recall the SSA employee's name. Nance asked how long were you in the Security West building and Callier replied about 7 minutes. McCullen asked Nance whether discipline was being contemplated and Nance replied yes. Nance requested that Callier write a statement regarding the incident but Callier declined on advice of McCullen (R Exh. 2). Nance left the conference room for a brief period and returned with a letter suspending Callier without pay from duty for "post abandonment" that occurred on September 27 (GC Exh. 5). Nance gave Callier a copy of the letter, ended the meeting, and escorted Callier and McCullen out of the building.

Callier remained on suspension until he received a letter dated October 13 that terminated his employment effective immediately for "Falsification of Official Records" (GC Exh. 14).⁵ The letter stated in pertinent part that after reviewing the CCTV security system and statements by individuals involved in this matter, it has been determined that on September 27, you signed the Form 4072 for Post 28 for an official break at 10:00 a.m. to 10:30 a.m., and you were viewed on the CCTV security system returning to your designated patrol area at 10:40 a.m.

Discussion

The protected nature of Callier's and other employee's efforts to protest Respondent's actions concerning wages, hours and working conditions has long been recognized by the Board who has held that similar conduct comes within the guarantees of Section 7 of the Act.

⁵ Respondent prepared an earlier termination letter dated October 7 but it was inadvertently not signed by Nance (R Exh. 1). Thus, the October 13 letter was re-sent with the same narrative and contained an official signature.

See *Joseph DeRairo, DMD, P.A.* 283 NLRB 592 (1987). The Board has also held in *Mike Yurosek & Sons, Inc.*, 306 NLRB 1037, 1038 (1992), that “individual action is concerted where the evidence supports a finding that the concerns expressed by the individual are [sic] logical outgrowth of the concerns expressed by the group.” In this case, I find that Callier’s
 5 discussions, on his own and the employees’ behalf, about concerns with King’s hostile attitude and supervisory methods falls within the ambit of protected concerted activity. This fact was also confirmed by Bittenbender (GC Exh. 6). However, it must be determined whether Callier was suspended and thereafter terminated based on such activity.

10 In *Wright Line*, 251 NLRB 1083 (1980), enfd, 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), the Board announced the following causation test in all cases alleging violations of Section 8(a)(3) or violations of Section 8(a)(1) turning on employer motivation. First, the General Counsel must make a prima facie showing sufficient to support the inference that protected conduct was a “motivating factor” in the employer decision. On such a showing,
 15 the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct. The United States Supreme Court approved and adopted the Board’s *Wright Line* test in *NLRB v. Transportation Management Corp.*, 462 U.S. 393, 399-403 (1993). In *Manno Electric*, 321 NLRB 278 fn. 12 (1996), the Board restated the test as follows. The General Counsel has the burden to persuade that antiunion sentiment was
 20 a substantial or motivating factor in the challenged employer decision. The burden of persuasion then shifts to the employer to prove its affirmative defense that it would have taken the same action even if the employee had not engaged in protected activity.

25 I find that the Acting General Counsel sustained his initial burden of showing that Callier’s protected activity was a motivating factor in the decision to suspend and thereafter terminate him. In this regard, Callier engaged in protected activity by complaining about the hostile attitude and supervisory methods of King, the Employer was aware of this activity, and animus against such activity was exhibited by the Employer. Moreover, the timing of Callier’s suspension and termination demonstrates animus by the Respondent. I further find that the
 30 Respondent has not met its rebuttal burden under *Wright Line*, of showing that it would have discharged Callier even in the absence of his protected activity. Notably, the test applies regardless of whether the case involves pretextual reasons or dual motivation. *Frank Black Mechanical Services*, 271 NLRB 1302 fn. 2 (1984). The Board has held that a finding of pretext necessarily means that the reasons advanced by the employer either did not exist or were not,
 35 in fact relied upon, thereby leaving intact the inference of wrongful motive. *Limestone Apparel Corp.* 255 NLRB 722 (1981), enfd. 705 F. 2d 799 (6th Cir. 1982). In short, a finding of pretext defeats any attempt by the employer to show that it would have discharged the discriminatee absent his or her protected conduct. *Golden State Foods Corp.* 340 NLRB 382 (2003).

40 I conclude that the Respondent engaged in a cursory investigation and rushed to judgment in reaching its final decision to terminate Callier. In this regard, Nance was predisposed to immediately suspend Callier once he received Cloud’s e-mail (GC Exh. 6) that described the meeting between Menefee and Callier as “SSA should not be involved in this type of inappropriate contacts”.⁶ It is noted that SSA is Respondent’s client, and it can only continue
 45 this relationship by maintaining good customer relations. The receipt of the e-mail from Cloud prompted Nance to embark on a course of conduct to eliminate any impediment that could damage that relationship. Indeed, Swann testified that Nance contacted him on September 27,

50 ⁶ Nance stated in his pre-trial sworn affidavit that he made the decision to suspend Callier based on what he perceived as an acknowledgement that Callier was not at his post at 10 a.m., even though the sign-in log indicated he was.

5
 10
 15
 20
 25
 30
 35
 40
 45
 50
 sometime between 1:00 and 2:00 p.m., and instructed him to check the video footage between 10:00 and 11:00 a.m. to discern Callier's whereabouts during that period. It is noted that this time frame is after Nance received Bittenbender's e-mail reply to his determination to suspend Callier and informed him not to take such action. Swann responded by e-mail dated September 28, and informed Nance that Callier comes into view of the camera at Post 24 and walks into view from the direction of the loading dock, turns east onto South drive walking in the direction of his assigned Post 28 (R Exh. 3). Nance then sent an e-mail to Bittenbender apprising her of the video camera information and included the statement "The client is very upset and embarrassed by the incident" (GC Exh. 15). The lack of any type of thorough investigation is confirmed by Ferritto who admitted that no interviews or written statements were taken from any security guards, managers/supervisors, or third party SSA representatives that had knowledge of the events surrounding Callier. For example, had a complete investigation been undertaken by the Respondent before imposing its decision to suspend and terminate Callier, the following evidence would have been uncovered. First, both Callier and Faison testified that they talked and saw each other at the control center on September 27 around 10:30 a.m. when they both signed the Form 4072. Indeed, Faison and Ector confirmed that it takes approximately 5 minutes to walk directly to Post 28 from the control center following the designated route that Callier routinely took by going past the loading dock and through the Tower parking Garage area. Thus, Callier would have been on duty while he was returning to his assigned Post. Moreover, Callier testified without contradiction that while he was returning to Post 28, he contacted Cousins to inform her that he had inspected the Tower parking area and garage, a period of time that he was on duty. Additionally, Callier testified that while he was on his assigned patrol he ran into Swann and King who approached him in a mobile unit, a fact confirmed by McCullen.⁷ Thus, it is readily apparent that if a thorough and impartial investigation had been conducted between September 27 and October 7 (the date of the original termination letter that was not signed by Nance), it would have confirmed that after Callier signed in from his lunch break at 10:30 a.m. he was engaged in routine patrol/security duties and did not either falsify government records or abandon his post. Rather, it is apparent that Nance's fixation with the concerns of SSA who the Respondent was beholden for the continuation of its contract (Cloud stating that SSA should not be involved in this type of inappropriate contacts and Nance stating the client is very upset and embarrassed by the incident), brought about the suspension and subsequent termination of Callier.

35
 40
 45
 50
 Lastly, I conclude that the Respondent provided shifting reasons for the discipline taken against Callier. First, the suspension letter dated September 27 (GC Exh. 5) notifies Callier that he is being suspended without pay pending the result of an investigation for "post abandonment". Second, the termination letter dated October 13 (GC Exh. 14) notifies Callier that he is being terminated based on "Falsification of Official Records". Third, in response to a Step 3 grievance dated November 7 (GC Exh. 13) filed by the Union challenging Callier's

7 The Respondent disputed that Swann and King met Callier around 10:35 a.m. on September 27 by introducing in evidence an e-mail sent by Swann at 10:27 a.m. This e-mail, however, does not establish that Swann did not engage Callier at 10:35 a.m. due to the fact that Swann admitted that a mobile unit could reach Post 24 in about 5 minutes and he could not recall whether he sent the e-mail from his office computer or blackberry/i-phone. Moreover, I am circumspect when it comes to Swann's credibility. In this regard, during his trial testimony he vacillated on numerous occasions with dates and times and acknowledged on the record that he was uncertain with the time line of a number of events regarding Callier. Thus, I fully credit the testimony of Callier and McCullen in evaluating their meeting and discussion with Swann at Post 24. Moreover, I note that the Respondent did not produce King as a witness which tends to undermine Swann's testimony and his credibility.

5 termination, the Respondent stated that when Callier left his post without proper relief, this constituted post abandonment, thereby violating established company policies, the CBA and his training. Furthermore, by abandoning his post without proper relief, the company had just cause for terminating him for neglect of duty and post abandonment. When an employer provides shifting reasons for discharging an employee, the Board has found that the proffered reasons are pretextual and the true reason is animus. *Mt. Clemens General Hospital*, 344 NLRB 450, 458 (2005); *Seminole Fire Protection, Inc.*, 306 NLRB 590 (1992).

10 In summary, I find that Callier was terminated for engaging in protected concerted activity in raising his and other employees concerns about the hostile attitude and supervisory methods of Sergeant King. Accordingly, such action violates Section 8(a)(1) of the Act.⁸

Conclusions of Law

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

20 2. By suspending and discharging employee Marshall Callier the Respondent has been interfering with, restraining, or coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

Remedy

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

30 Specifically, having found that the Respondent violated Section 8(a)(1) of the Act by suspending and discharging Marshall Callier, I shall order the Respondent to offer him full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent job, without prejudice to his seniority or any other rights or privileges previously enjoyed. Further, the Respondent shall make the aforementioned employee 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 at the rate prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), enf. denied on other grounds sub. nom., *Jackson Hospital Corp. v. NLRB*, 647 F. 3d 1137 (D.C. Cir. 2011). The Respondent shall also be required to expunge from its files any and all references to the unlawful suspension and discharge of Marshall Callier and to notify him in writing that this has been done and that the unlawful suspension and discharge will not be used against him in any way.

45 ⁸ I am not disposed to find that the termination of Callier also violated Section 8(a)(1) and (3) of the Act. In this regard, although Callier was a high level Union officer, the Acting General Counsel did not produce any evidence that the Respondent exhibited animus against Callier because of his activities on behalf of the Union. Rather, it is clear to me that the actions of Callier in involving a third party SSA representative in a work related issue was the real reason for the discipline imposed on Callier. Moreover, I note that the remedy is the same in either
50 circumstance.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁹

ORDER

5

The Respondent, Paragon Systems, Inc. Woodlawn, Maryland, its officers, agents, successors, and assigns, shall

10

1. Cease and desist from

(a) Discharging or suspending employees who engage in concerted activities, or to discourage employees from engaging in these 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.

15

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

20

(a) Within 14 days from the date of this Order, offer Marshall Callier reinstatement to his former position or, if such position no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

25

(b) Within 14 days from the date of this Order, make Marshall Callier whole for any loss of earnings and other benefits suffered as a result of his unlawful suspension and discharge, with interest, in the manner set forth in the remedy section of this decision.

30

(c) Within 14 days from the date of this Order, remove from its files all references to the unlawful suspension and discharge of Marshall Callier, and within 3 days thereafter, notify him in writing that this has been done and that the unlawful suspension and discharge will not be used against him in any way.

35

(d) 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 decision.

40

(e) Within 14 days after service by the Region, post at its facilities in Woodlawn, Maryland copies of the attached notice marked "Appendix."¹⁰ Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted immediately upon receipt 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 e-mail, posting

45

⁹ 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.

50

¹⁰ If this Order is enforced by a Judgment of the 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."

on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with their employees by such means. *Picini Flooring*, 356 NLRB No. 9 (2010). 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 have 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 September 27, 2011.

5

10

- (f) 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.

15

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. August 10, 2012

20

Bruce D. Rosenstein
Administrative Law Judge

25

30

35

40

45

50

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 the National Labor Relations Act and has ordered us to post, mail, 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 discourage you from discussing or disputing employees' wages, hours, or working conditions.

WE WILL NOT suspend or discharge employees because they engage in concerted activities, or to discourage employees from engaging in these activities.

WE WILL offer Marshall Callier 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 and privileges previously enjoyed.

WE WILL make Marshall Callier whole for any loss of earnings and other benefits suffered as a result of our unlawful conduct, with interest.

WE WILL, within 14 days, from the date of this Order, remove from our files all references to the unlawful suspension and discharge of Marshall Callier, and WE WILL, within 3 days thereafter, notify him in writing that this has been done and that the unlawful suspension and discharge will not be use against him in any way.

Paragon Systems, Inc.

(Employer)

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.

JD-40-12
Woodlawn, MD

100 South Charles Street, Bank of America Center, Tower II, Suite 600
Baltimore, MD 21201
Hours: 8:15 a.m. to 4:45 p.m.
410-962-2822.

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, 410-962-2864.