

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

PRIME PROTECTIVE, INC.

and

Case No. 29-CA-116082

SPECIAL AND SUPERIOR
OFFICERS BENEVOLENT ASSOCIATION

**MOTION FOR DEFAULT JUDGMENT
WHERE RESPONDENT HAS FAILED TO FILE AN ANSWER**

PLEASE TAKE NOTICE that the undersigned Counsel for the General Counsel, upon the below-stated facts, and the annexed documents and exhibits referred to herein, hereby moves that:

The Board, prior to and without the necessity of a hearing, issue an order containing findings of fact and conclusions of law in accordance with the allegations of the Complaint in the above case, and ordering Prime Protective, Inc, herein called Respondent, to appropriately remedy the unfair labor practices found, including such other, further and different relief as may be proper in the circumstances.

In support of said Motion, Counsel for the General Counsel shows and alleges that:

1. On or about October 25, 2013, the Special and Superior Officers Benevolent Association, herein called the Union, filed an unfair labor charge in Case No. 29-CA-116082, alleging that Respondent has violated Section 8(a)(1) and (5) of the National Labor Relations Act, herein called the Act. The charge was amended on or about December 12, 2013. Copies of the unfair labor practice charge and the amended charge are attached hereto as Exhibits A and B. Service of the charges was made upon Respondent by regular mail on or about

October 31, 2013 and December 13, 2013. Copies of the cover letters accompanying the charges with affidavits of service are attached hereto as Exhibits C and D.

2. On January 7, 2014, a Complaint and Notice of Hearing was issued in the above case. A copy of said Complaint is attached hereto as Exhibit E. The Complaint and Notice of Hearing requires, inter alia, that Respondent file an answer to the Complaint pursuant to Section 102.20 and 102.21 of the Rules and Regulations of the Board. The Complaint was served upon Respondent by certified mail on or about January 8, 2014. A copy of the affidavit of service is attached hereto as Exhibit F.

3. Pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, Respondent's time to answer the Complaint expired on January 22, 2014.

4. On or about January 28, 2014, the undersigned sent a letter to Respondent by regular mail, noting that an answer to the Complaint had not been filed, and advising that if an answer was not received by February 4, 2014, Counsel for the General Counsel would seek Default Judgment from the Board. A copy of this letter is attached hereto as Exhibit G.

5. To date, no answer has been filed by, or on behalf of Respondent, and Respondent has not made any applications for an extension of time to file an answer. Respondent has been served with the charge and Complaint and with all papers and documents pertaining to this proceeding, and thus has been put on notice of the procedures to be followed by it, including the requirement of filing an answer to the Complaint.

6. Section 102.20 of the Board's Rules and Regulations provides that if no answer is filed, "all the allegations in the Complaint shall be deemed to be admitted...to be true and may be so found by the Board." The last paragraph of the Complaint additionally notified Respondent that if Respondent did not file a timely answer "all the allegations in the Complaint shall be deemed to be admitted by it to be true and may be so found by the Board."

7. Based upon the above exhibits, the Motion for Default Judgment should be granted.

8. As an appropriate remedy for the allegations in the Complaint, Counsel for the General Counsel requests that Respondent, its officers, agents, successors and assigns be required to: (a) make whole the Union by remitting to it dues payments that had been deducted from employees' pay;(b) make whole the Union's Welfare Fund by paying its contractually required contributions, (c) make whole the employees for the loss of their vacation pay, and (d) post an appropriate notice. Furthermore, (e) reimbursement of amounts must be made equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no discrimination, and (f) submission of the appropriate documentation to the Social Security Administration is required so that when backpay is paid, it will be allocated to the appropriate periods. Finally, (g) Respondent must comply with such other Order of the Board as the Board deems appropriate in the circumstances of this case.

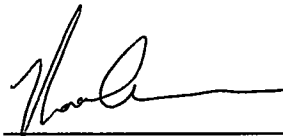
WHEREFORE, Counsel for the General Counsel respectfully moves the Board for the relief prayed for herein as follows:

(a) to find pursuant to Section 102.20 and 102.21 of the Board's Rules and Regulations that the allegations in the Complaint are true;

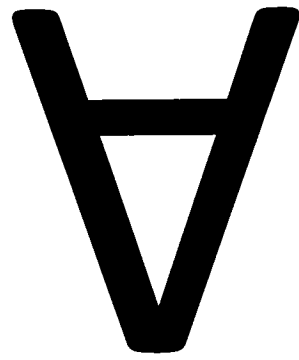
(b) to rule upon this Motion prior to the opening of any hearing and prior to the taking of any evidence; and

(c) prior to, and without necessity of further proof, a Board Order issue against Respondent herein, its officers, agents, successors, and assigns, containing findings of fact and conclusions of law in accordance with the appropriate allegations of said Complaint.

Dated at Brooklyn, New York, February 11, 2014.



Noor I. Alam
Counsel for the General Counsel
National Labor Relations Board
Region 29
2 Metro Tech Center, 5th Floor
Brooklyn, New York 11201



UNITED STATES OF AMERICA
 NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
29-CA-116082	October 28, 2013

INSTRUCTIONS:

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Prime Protective Services	b. Tel. No. 718-715-4092
d. Address (street, city, state ZIP code) 26 Court Street, Suite 709 Brooklyn, NY 11242	c. Cell No. f. Fax No.
e. Employer Representative Terry English	g. e-Mail h. Dispute Location (City and State)
i. Type of Establishment (factory, nursing home, hotel) Security Agency	j. Principal Product or Service Security Service
	k. Number of workers at dispute location 50+0

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Since about January 2013, the Employer has failed to bargain collectively and in good faith with Special and Superior Officers Benevolent Association, by imposing unilateral provisions including (1) failing to forward dues payments automatically deducted from the employees' paychecks to the Union. The Employer has also (2) failed to contribute to the employees' welfare and benefit funds over the past two years, (3) failed to forward child support payments deducted from employee paychecks to the proper agency within the 10(b) period, and (4) failed to provide other benefits and provisions for employees as provided for in the collective bargaining agreement.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

RON FEDRIZZI

4a. Address (street and number, city, state, and ZIP code)

200B W Main St, Babylon, NY 11702-3422

4b. Tel. No.

(631)587-9116

4c. Cell No.

(917)584-4025

4d. Fax No.

(631)587-3780

4e. e-Mail

ron@ssoba.com

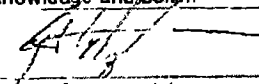
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

Special and Superior Officers Benevolent Association

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By:



RON FEDRIZZI

(signature of representative or person making charge)

Print Name and Title

Address: 200B W Main St, Babylon, NY 11702-3422

Date:

Tel. No.

(631)587-9116

Office, if any, Cell No.

(917)584-4025

Fax No.

(631)587-3780

e-Mail

ron@ssoba.com

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 USC § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary, however, failure to supply the information will cause the NLRB to decline to initiate its process.

RECEIVED
 NLRB-REG-10

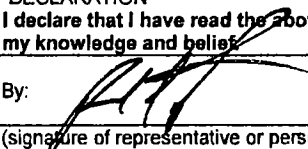
B

UNITED STATES OF AMERICA
 NATIONAL LABOR RELATIONS BOARD
**AMENDED CHARGE AGAINST
 EMPLOYER**

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
29-CA-116082	12/12/13

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer PRIME PROTECTIVE, INC.	b. Tel. No. (718)254-0900
d. Address (street, city, state ZIP code) 26 Court St Ste 709, Brooklyn, NY 11242-1107	e. Employer Representative TERRY ENGLISH
i. Type of Establishment (factory, nursing home, hotel) Security agency	j. Principal Product or Service Security Service
f. Fax No. (800)638-1884	
g. e-Mail	
h. Dispute Location (City and State) Brooklyn, NY	
k. Number of workers at dispute location 50+	
1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)	
<p>Since about January 2013, the Employer has failed to bargain collectively and in good faith with Special and Superior Officers Benevolent Association ("Union"), by imposing unilateral provisions including (1) failing to forward, to the Union, dues payments automatically deducted from the employees' paychecks. The Employer has also (2) failed to contribute to the employees' welfare and benefit funds over the past two years, (3) failed to forward child support payments deducted from employee paychecks to the proper agency within the 10(b) period, and (4) failed to provide other benefits for employees as stated in the collective bargaining agreement.</p>	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) RON FEDRIZZI	
4a. Address (street and number, city, state, and ZIP code) 200B W Main St, Babylon, NY 11702-3422	4b. Tel. No. (631)587-9116
	4c. Cell No. (917)584-4025
	4d. Fax No. (631)587-3780
	4e. e-Mail ron@ssoba.com
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Special and Superior Officers Benevolent Association	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By: 	Tel. No. (631)587-9116
(signature of representative or person making charge)	Office, if any, Cell No. (917)584-4025
Print Name and Title RON FEDRIZZI	Fax No. (631)587-3780
Address: 200B W Main St, Babylon, NY 11702-3422	e-Mail ron@ssoba.com
Date: 12-9-2013	

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
 PRIVACY ACT STATEMENT**

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С



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579

October 31, 2013

TERRY ENGLISH, CEO
PRIME PROTECTIVE SERVICES INC.
26 Court St Ste 709
Brooklyn, NY 11242-1107

Re: Prime Protective Services
Case 29-CA-116082

Dear Mr. ENGLISH:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney NOOR I. ALAM whose telephone number is (718)330-7730. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)330-2853.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be

considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

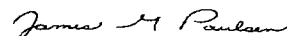
We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



JAMES PAULSEN
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Prime Protective Services

CASE NUMBER

29-CA-116082

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

 CORPORATION LLC LLP PARTNERSHIP SOLE PROPRIETORSHIP OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed)

7. A. PRINCIPAL LOCATION:

B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): CALENDAR YR. 12 MONTHS or FISCAL YR (FY dates)

YES NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$

H. Gross Revenues from all sales or performance of services (Check the largest amount)
 \$100,000 \$250,000 \$500,000 \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

 YES NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PRIME PROTECTIVE SERVICES INC.

Charged Party

and

RON FEDRIZZI

Charging Party

Case 29-CA-116082

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on October 31, 2013, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

TERRY ENGLISH, CEO
PRIME PROTECTIVE SERVICES INC.
26 Court St Ste 709
Brooklyn, NY 11242-1107

October 31, 2013

Date

William Newsome, Designated Agent of
NLRB

Name

/s/

Signature

D



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579

December 13, 2013

TERRY ENGLISH, CEO
PRIME PROTECTIVE SERVICES INC.
26 Court St Ste 709
Brooklyn, NY 11242-1107

Re: Prime Protective Services
Case 29-CA-116082

Dear Mr. ENGLISH:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney NOOR I. ALAM whose telephone number is (718) 330-7730. If the agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718) 330-2853.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

JAMES PAULSEN
Regional Director

Enclosure: Copy of first amended charge

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PRIME PROTECTIVE SERVICES INC.

Charged Party

and

RON FEDRIZZI

Charging Party

Case 29-CA-116082

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on December 13, 2013, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

TERRY ENGLISH, CEO
PRIME PROTECTIVE SERVICES INC.
26 Court St Ste 709
Brooklyn, NY 11242-1107

December 13, 2013

Date

Delby Alba, Designated Agent of NLRB

Name

/s/

Signature

3

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

PRIME PROTECTIVE, INC.

and

Case 29-CA-116082

**SPECIAL AND SUPERIOR OFFICERS
BENEVOLENT ASSOCIATION**

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by the Special and Superior Officers Benevolent Association (Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Prime Protective, Inc. (Respondent) has violated the Act as described below:

1. The charge in this proceeding was filed by the Union on October 28, 2013, and a copy was served by regular mail on Respondent on October 31, 2013.
2. The first amended charge in this proceeding was filed by the Union on December 12, 2013, and a copy was served by regular mail on Respondent on December 13, 2013.
3. At all material times, Respondent has been a domestic corporation with an office and place of business located at 26 Court Street, Suite 709, Brooklyn, New York (Respondent's facility), and has been providing security guard services to various customers located in New York City.
4. Annually, in conducting its business operations described above in paragraph 3, Respondent performed services valued in excess of \$50,000 for Lawrence Nursing Care Center

and Telco Stores, enterprises within the State of New York, which are directly engaged in interstate commerce.

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

7. At all material times, Terry English held the position of Respondent's President and Chief Executive Officer and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

8. The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full time and regular part time uniform guards employed by Respondent, except management and client supervisors.

9. Since at least January 2013 and at all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from June 1, 2013 to May 31, 2014.¹

10. At all material times since January 1, 2013, the Union has been the exclusive collective bargaining representative of the Unit.

11. Since at least June 1, 2013, Respondent failed to continue in effect all the terms and conditions of the agreement described above in paragraph 9 by:

¹ Although the current name of Respondent is Prime Protective, Inc., at the time the last collective bargaining agreement was signed, the name of the Respondent was Prime Protective Services, Inc. The charge was properly amended to reflect this change.

- a) failing to forward to the Union, monthly dues payments automatically deducted from employees' paychecks;
- b) failing to make monthly contributions to the Special and Superior Officers Benevolent Association Welfare Fund; and
- c) failing to provide vacation pay to certain employees.

12. The terms and conditions of employment described above in paragraphs 11(a) through 11(c) are mandatory subjects for the purposes of collective bargaining.

13. Respondent engaged in the conduct described above in paragraphs 11(a) through 11(c) without the Union's consent.

14. By the conduct described above in paragraphs 11 through 13, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act, and in violation of Sections 8(a)(1) and 8(a)(5) of the Act.

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

As part of the remedy for the unfair labor practices alleged above in paragraphs 11(c), the General Counsel seeks an order requiring reimbursement of amounts equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no discrimination. The General Counsel further seeks that the that Respondent be required to submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

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 January 22, 2014, or postmarked on or before January 21, 2014.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to 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 answer 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 continue to 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 by means allowed under 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. Any request for an extension of time to file an Answer must, pursuant to Section 102.111(b) of the Board's Rules and Regulations, be filed by the close of business on January 21, 2014. The request should be in writing and addressed to the Regional Director of Region 29.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **February 25, 2014 9:30am, at Two Metro Tech Center, Brooklyn, NY**, 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: January 7, 2014

JAMES G. PAULSEN
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Attachments

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

PRIME PROTECTIVE, INC.

and

Case 29-CA-116082

**SPECIAL & SUPERIOR OFFICERS
BENEVOLENT ASSOCIATION**

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on January 7, 2014, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

TERRY ENGLISH , CEO
PRIME PROTECTIVE, INC.
26 Court St Ste 709
Brooklyn, NY 11242-1107

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED**

RON FEDRIZZI , VP Fund Administrator
SPECIAL & SUPERIOR OFFICERS
BENEVOLENT ASSOCIATION
200B W Main St
Babylon, NY 11702-3422

CERTIFIED MAIL

Date

Delby Alba, Designated Agent of NLRB
Name

Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 29-CA-116082

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. Postponements *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.

TERRY ENGLISH , CEO
PRIME PROTECTIVE, INC.
26 Court St Ste 709
Brooklyn, NY 11242-1107

RON FEDRIZZI , VP Fund Administrator
SPECIAL & SUPERIOR OFFICERS
BENEVOLENT ASSOCIATION
200B W Main St
Babylon, NY 11702-3422

**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)

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8 1/2 by 11 inch paper.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations, with respect to the procedure to be followed before the proceeding is transferred to the Board: No request for an extension of time within which to submit briefs or proposed findings to the administrative law judge will be considered unless received by the Chief Administrative Law Judge in Washington, DC (or, in cases under the branch offices in San Francisco, California; New York, New York; and Atlanta, Georgia, the Associate Chief Administrative Law Judge) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously on all other parties, and proof of such service furnished to the Chief Administrative Law Judge or the Associate Chief Administrative Law Judge, as the case may be. A quicker response is assured if the moving party secures the positions of the other parties and includes such in the request. All briefs or proposed findings filed with the administrative law judge must be submitted in triplicate, and may be printed or otherwise legibly duplicated with service on the other parties.

In due course the administrative law judge will prepare and file with the Board a decision in this proceeding, and will cause a copy thereof to be served on each of the parties. Upon filing of this decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, on all parties. At that point, the administrative law judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the administrative law judge's decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be served on the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations. If adjustment appears possible, the administrative law judge may suggest discussions between the parties or, on request, will afford reasonable opportunity during the hearing for such discussions.

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

PRIME PROTECTIVE, INC.

and

Case 29-CA-116082

**SPECIAL & SUPERIOR OFFICERS
BENEVOLENT ASSOCIATION**

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on January 7, 2014, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

TERRY ENGLISH , CEO
PRIME PROTECTIVE, INC.
26 Court St Ste 709
Brooklyn, NY 11242-1107

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED**

RON FEDRIZZI , VP Fund Administrator
SPECIAL & SUPERIOR OFFICERS
BENEVOLENT ASSOCIATION
200B W Main St
Babylon, NY 11702-3422

CERTIFIED MAIL

1/7/14
Date

Delby Alba, Designated Agent of NLRB
Name


Signature

G



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579

Agent's Direct Dial: (718)330-7730

January 28, 2014

Terry English, CEO
Prime Protective, Inc.
26 Court St. Ste 709
Brooklyn, NY 11242-1107

Re: Prime Protective, Inc.
Case 29-CA-116082

Dear Mr. English:

On January 7, 2014, the National Labor Relations Board issued a Complaint and Notice of Hearing against Prime Protective, Inc. You were served with a copy of the Complaint. This is to remind you that your answer was due on January 22, 2014. As of this date, we have not received an answer to the Complaint. Unless an answer is received by the close of business on February 4, 2014, the Region will seek a Default Judgment from the Board on the allegations in the Complaint.

The hearing in this matter is scheduled for February 25, 2014 at 9:30 a.m. If you have any questions, please do not hesitate to call.

Very truly yours,

/s/

NOOR I. ALAM
Field Attorney

Enclosure(s)