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International Union, Security, Police and Fire Professionals of America and its Local Union 287 (Akal/Coastal International Security) and Cynthia V. Parham. Case 05–CB–100697

April 23, 2014

DECISION AND ORDER

BY MEMBERS MISCIMARRA, HIROZAWA, AND JOHNSON

The General Counsel seeks a default judgment in this case pursuant to the terms of an informal unilateral settlement agreement. On March 19, 2013, Cynthia V. Parham (the Charging Party) filed a charge against International Union, Security, Police and Fire Professionals of America and Its Local 287 (the Respondent), alleging that the Respondent violated Section 8(b)(1)(A) of the Act by failing and/or refusing to represent Parham in her grievances against Coastal International Security (the Employer).

Subsequently, the Respondent executed an informal unilateral settlement agreement, which was approved by the Regional Director for Region 5 on July 16, 2013. Among other things, the settlement agreement required that the Respondent (1) consider in good faith the grievances that Parham attempted to file on September 24, November 18, and December 10, 2012, and process the grievances in a nonperfunctory manner; (2) post the appropriate notices; and (3) inform the Region of the steps taken to comply with the agreement. The settlement agreement also contained the following provision:

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will issue a complaint that will include the allegations spelled out above in the Scope of Agreement section. Thereafter, the General Counsel may file a motion for default judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that all of the allegations of the complaint will be deemed admitted and it will have waived its right to file an Answer to such complaint. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and con-

clusions of law consistent with those allegations adverse to the Charged Party on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is appropriate to remedy such violations. The parties further agree that a U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte, after service or attempted service upon Charged Party/Respondent at the last address provided to the General Counsel.

By letter dated August 16, 2013, the Region sent the Respondent a copy of the approved settlement agreement and advised it to take the steps necessary to comply with the agreement, including providing the Region with information that would demonstrate such compliance. By email dated September 11, 2013, the Region notified the Respondent that it had not provided the following information that the Region had requested in its August 16 letter: (1) four signed and dated original notices; (2) a completed certification of posting; (3) a paper copy of the intranet or website posting of the signed Notice; and (4) relevant evidence to show that the Respondent would consider in good faith the grievances that Parham had attempted to file. The email further stated that if the Respondent did not provide the requested documents by September 16, 2013, the Region would seek default judgment under the settlement agreement's noncompliance provision.

By email dated November 19, 2013, the Region informed the Respondent that it had not yet provided any of the above-described information. The Region's email noted that it had provided the Respondent with copies of two of the grievances at issue, that Parham provided the Respondent with a third grievance, and that the fourth grievance had also been provided to the Respondent's representative. The Region informed the Respondent that the settlement agreement did not concern the merits of the grievances, but only the perfunctory handling of the grievances by the Respondent. The Respondent answered that it had never received one of the grievances referenced in the settlement agreement and could not therefore process it. In reply, the Region reiterated that the Respondent had been provided with the grievances and that the information requested in the Region's August 16 letter was due by November 27, 2013. On December 2, 2013, the Region sent the Respondent a follow-up email, requesting that the Respondent notify the Region when it could expect the requested information. The Respondent failed to respond or to comply with the Region's request.

Accordingly, pursuant to the noncompliance terms of the settlement agreement, the Acting Regional Director

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issued a complaint on January 28, 2014, alleging that the Respondent violated Section 8(b)(1)(A) of the Act. On January 30, 2014, the General Counsel filed a Motion for Default Judgment with the Board. On January 31, 2014, the Board issued an order transferring the proceeding to the Board and Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore uncontested.

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

Ruling on Motion for Default Judgment

According to the uncontroverted allegations in the motion for default judgment, the Respondent has failed to comply with the terms of the settlement by failing to provide the Region with the following information requested in its August 16, 2013 letter: (1) four signed and dated original notices; (2) a completed certification of posting; (3) a paper copy of the intranet or website posting of the signed notice; and (4) relevant evidence to show that the Respondent will consider in good faith the grievances that Parham attempted to file. Consequently, pursuant to the noncompliance provisions of the settlement agreement set forth above, we find that all of the allegations in the complaint are true.¹ Accordingly, we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, Coastal International Security (the Employer), a corporation organized under the laws of the Commonwealth of Virginia and a wholly owned subsidiary of Akal Security, Inc., with an office and place of business in Lorton, Virginia, has been engaged in the business of providing contract security services to various firms and institutions, including the Ronald Reagan Federal Building located at 1300 Pennsylvania Avenue NW, Washington, D.C.

In conducting its business operations during the 12-month period ending December 31, 2013, the Employer performed services valued in excess of \$50,000 in states outside of Washington, D.C.

We find that the Employer is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that International Union, Security, Police and Fire Professionals of America and its Local

287, the Respondent, is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, by virtue of Section 9(a) of the Act, the Respondent has been the exclusive collective-bargaining representative of the following employees of the Employer (the unit):

All full-time and regular part-time Security Officer Employees employed by the Employer at the Ronald Reagan Building in Washington D.C., but excluding all other employees including Sergeants, Lieutenants, Captains, office clerical employees, managerial employees, and professional employees as defined in the Act.

At all material times, the Respondent and the Employer have maintained and enforced a collective-bargaining agreement covering the terms and conditions of employment of the unit, including a grievance and arbitration provision.

Since about September 24, 2012, the Respondent has failed and refused to accept or process a grievance that Cynthia V. Parham attempted to file under the provisions of the agreement described above concerning the Employer's granting of bathroom breaks.

Since about November 8, 2012, the Respondent has failed and refused to accept or process a grievance that Cynthia V. Parham attempted to file under the provisions of the agreement described above concerning a supervisor's falsification of a time sheet.

Since about December 10, 2012, the Respondent has failed and refused to accept or process a grievance that Cynthia V. Parham attempted to file under the provisions of the agreement described above, concerning an officer stealing cups from the food court.

Since about December 10, 2012, the Respondent has failed and refused to accept or process a grievance that Cynthia V. Parham attempted to file under the provisions of the agreement described above concerning an officer who violated multiple post orders.

The Respondent's conduct described above was perfunctory.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has failed and refused to represent Cynthia V. Parham, an employee to whom it owes a duty of fair representation, for reasons that are unfair, arbitrary, or invidious and has breached the fiduciary duty it owes to Cynthia V. Parham and the unit employees. The Respondent has thereby restrained and coerced employees in the ex-

¹ See *U-Bee, Ltd.*, 315 NLRB 667 (1994).

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ercise of their rights guaranteed in Section 7 of the Act in violation of Section 8(b)(1)(A) of the Act. The Respondent's unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has failed or refused to accept or process the grievances that Cynthia V. Parham attempted to file between September and December 2012 for unfair, arbitrary, or invidious reasons, we shall order the Respondent to accept the grievances filed by Cynthia V. Parham, or any other employee to whom it owes a duty of fair representation, and, if warranted, process them in a non-perfunctory manner.

ORDER

The National Labor Relations Board orders that the Respondent, International Union, Security, Police and Fire Professionals of America and its Local 287, Washington, D.C., its officers, agents, and representatives, shall

1. Cease and desist from

(a) Failing and refusing to accept or process the grievance of any employee to whom it owes a duty of fair representation for unfair, arbitrary, or invidious reasons.

(b) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

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

(a) Accept in good faith and, if warranted, process, in a nonperfunctory manner, the grievances that Cynthia V. Parham attempted to file on September 24, 2012, November 18, 2012, and December 10, 2012.

(b) Within 14 days after service by the Region, post at its business office and meeting places copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Acting Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees and members are customarily posted. In addition to physical posting of paper notices, notices shall be dis-

tributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with employees and members by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material.

(c) Within 14 days after service by the Region, deliver to the Regional Director for Region 5 signed copies of the notice in sufficient number for posting by the Employer, Coastal International Security, if willing, at all places where notices to employees are customarily posted in its facility in Washington, D.C.

(d) Within 21 days after service by the Region, file with the Regional Director for Region 5 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.

Dated, Washington, D.C. April 23, 2014

Philip A. Miscimarra, Member

Kent Y. Hirozawa, Member

Harry I. Johnson, III, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES AND MEMBERS

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain on your behalf with your employer

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted By Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

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WE WILL NOT fail and refuse to accept or process the grievance of any employee to whom we owe a duty of fair representation for unfair, arbitrary or invidious reasons.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights listed above.

WE WILL accept in good faith and, if warranted, process in a nonperfunctory manner the grievances that Cyn-

thia V. Parham attempted to file on September 24, November 18, and December 10, 2012.

INTERNATIONAL UNION, SECURITY, POLICE AND
FIRE PROFESSIONALS OF AMERICA AND ITS
LOCAL UNION 287