

**Triple A Fire Protection, Inc. and United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Road Sprinkler Fitters Local Union No. 669, AFL-CIO.** Case 15-CA-011498

August 26, 2011

SECOND SUPPLEMENTAL DECISION  
AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS BECKER  
AND PEARCE

This compliance proceeding involves the amounts of backpay and benefit fund contributions owed by the Respondent pursuant to a make-whole order issued by the Board. In the unfair labor practice proceeding, the Board found that the Respondent violated Section 8(a)(5) and (1) by, inter alia, unilaterally changing wage rates and ceasing benefit contributions after the expiration of a collective-bargaining agreement. The Board ordered the Respondent to rescind the unlawful changes, resume benefit contributions, and make the employees and the benefit funds whole.<sup>1</sup> The Court of Appeals for the Eleventh Circuit enforced the Board's Order,<sup>2</sup> and compliance proceedings were initiated.

The questions presented here are whether to affirm a Supplemental Decision and Order issued by the two sitting members of the Board that disposed of certain compliance issues and remanded others, and whether to affirm the administrative law judge's supplemental decision resolving the remanded issues.

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

I. THE TWO-MEMBER DECISION

On January 30, 2009, the two sitting members of the Board issued a Supplemental Decision and Order in the compliance proceeding.<sup>3</sup> That decision, which is reported at 353 NLRB 838, ruled on several motions and remanded the proceeding for a hearing before an administrative law judge on the remaining issues. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to

<sup>1</sup> 315 NLRB 409 (1994).

<sup>2</sup> 136 F.3d 727 (1998), cert. denied 525 U.S. 1067 (1999).

<sup>3</sup> Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

exercise the delegated authority of the Board, a delegee group of at least three members must be maintained.

On August 12, 2010, the Acting General Counsel filed a Motion for Affirmation of the Board's Supplemental Decision and Order. The Respondent filed a Response to the Motion for Affirmation.

The Board has considered the Motion for Affirmation and Response, as well as the underlying motions and briefs, and has decided to affirm the Supplemental Decision and Order, which is incorporated herein by reference.<sup>4</sup> In so doing, we observe that if a respondent—as in this proceeding—unlawfully ceases making required payments to benefit funds on behalf of employees, the appropriate remedy is to require that the funds be made whole for the missed payments. *Stone Boat Yard v. NLRB*, 715 F.2d 441, 446 (9th Cir. 1983) (“The company is merely required to repay what it has unlawfully withheld. . . . [T]he [employer's] diversion of contributions from the union funds undercut[s] the ability of those funds to provide for future needs.”), enfg. 264 NLRB 981 (1982), cert. denied 466 U.S. 937 (1984).<sup>5</sup> *Arandess Management Co.*, 337 NLRB 245 (2001), relied on by the Respondent, is distinguishable on two grounds: (1) that case involved the make-whole relief owed to individual employees,<sup>6</sup> rather than the make-whole relief owed to benefit funds; and (2) *Arandess*, unlike the present case, presented two sets of employees—those who were unlawfully denied employment and those who were hired in their place—for one set of jobs requiring benefit-fund contributions.

II. THE ADMINISTRATIVE LAW JUDGE'S  
SUPPLEMENTAL DECISION

On February 10, 2010, pursuant to the remand in the Supplemental Decision and Order, Administrative Law Judge Keltner W. Locke issued the attached supplemental decision. The Respondent filed exceptions and a supporting brief, and the General Counsel and the Union each filed an answering brief. The General Counsel and the Union filed cross-exceptions, the Respondent filed a

<sup>4</sup> On September 10, 2009, the Board, by its Executive Secretary, issued an Order denying as untimely Respondent's Motion for Reconsideration of the supplemental decision. The Motion for Reconsideration was filed 7 months after the supplemental decision issued on January 30, 2009. We affirm the denial of the motion. See Board Rules & Regulations Sec. 102.48(d)(2)(such motions to be filed within 28 days after service of the Board's decision).

<sup>5</sup> Accord: *Schwickert's of Rochester, Inc.*, 349 NLRB 687, 687 fn. 2 (2007); *Virginia Concrete Co. v. NLRB*, 75 F.3d 974, 988 (4th Cir. 1996), enfg. 316 NLRB 261 (1995); *NLRB v. Transport Service Co.*, 973 F.2d 562, 569 fn. 3 (7th Cir. 1992), enfg. in pertinent part 302 NLRB 22 (1991).

<sup>6</sup> See 337 NLRB at 247 (“the Board's Order required the Respondents to ‘make whole the bargaining unit employees’”).

brief in opposition, and the Union filed a reply. The Board has considered the decision and the record in light of the exceptions, cross-exceptions, and briefs and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order as modified and set forth in full below.

We agree with the judge's findings concerning the backpay amounts owed to employees<sup>7</sup> and the amounts owed by the Respondent to make the three benefit funds whole for its failure to make required payments to those funds.<sup>8</sup> We further agree with the judge that the Respondent owes interest and liquidated damages on those delinquent fund payments, pursuant to the funds' governing documents, by which the Respondent agreed to be bound in its collective-bargaining agreement with the Union. The settled rule provides that the Board first looks to the funds' governing documents to determine any additional amounts necessary as a make-whole remedy for delinquent fund payments. *Merryweather Optical Co.*, 240 NLRB 1213, 1216 fn. 7 (1979). Where the provisions in the funds' governing documents provide for interest and liquidated damages on delinquent payments, *Merryweather Optical* dictates that the contractual terms be enforced. See, e.g., *Ryan Iron Works*, 345 NLRB 893, 895, 896 fn. 19 (2005).

The record establishes that the Respondent's collective-bargaining agreement with the Union incorporates the funds' governing documents.<sup>9</sup> Article 23 of the collective-bargaining agreement provides:

Employers party to this Agreement shall submit contributions to the Welfare, Pension, and Educational, S.I.S. and Industry Promotion Funds in accordance with rules, regulations, and procedures established by the Trustees of the Welfare, Pension and Educational Funds.

The Respondent is therefore bound to make its delinquent fund payments in accord with the "Guidelines for Participation in the Sprinkler Industry Trust Funds" [hereinafter "Guidelines"] issued by the funds' trustees. Article VI of

<sup>7</sup> We reject as untimely the Respondent's exception that the compliance specification failed to break down the backpay amounts by calendar quarter. See Board Rules & Regulations Sec. 102.55(a). The Respondent failed to raise this argument in its answer to the compliance specification, in its motion for summary judgment before the two-member Board, or at the hearing. Compare, e.g., *Advanced Architectural Metals, Inc.*, 355 NLRB 935, 938 (2010) (untimely response to compliance specification).

<sup>8</sup> The three funds are the National Automatic Sprinkler Industry Welfare Fund, National Automatic Sprinkler Industry Pension Fund, and NASI-Local 669 Industry Education Fund.

<sup>9</sup> The collective-bargaining agreement was effective from March 1, 1988, to March 3, 1991.

the Guidelines provides for liquidated damages in the amount of 20 percent on fund contributions that are more than 1 month delinquent, and article VII provides for 12 percent interest on delinquent payments, in addition to the liquidated damages.<sup>10</sup> Our reading of the Guidelines was specifically corroborated by the credited testimony of the funds' administrator, Michael Jacobson. We accordingly agree with the judge's finding that the record establishes that the Respondent agreed to pay interest and liquidated damages on delinquent fund payments.<sup>11</sup>

As requested in the cross-exceptions pending before us, we modify the judge's recommended Order to provide for such interest payments and liquidated damages, which the judge inadvertently omitted. In so ordering, we observe that the Board is not awarding these sums as an arbitrary exercise of discretion or as a penalty. Rather, pursuant to our remedial authority, we are enforcing the parties' lawful contractual provisions. There is no contention before us that the Respondent, in agreeing to these provisions, acted under duress, that there was no meeting of the minds, or that there was any form of conduct implicating any other recognized defense to liability under the contract. Our remedy is thus based solely on the parties' agreement concerning how this specific form of breach should be remedied.<sup>12</sup> Furthermore, given the Board's statutory duty to protect the process and preserve the results of collective bargaining, it would be incongruous for the Board to "second guess a collectively-bargained remedy."<sup>13</sup>

Finally, we acknowledge that in 2003, the Eleventh Circuit Court of Appeals, in an unpublished decision in a civil contempt proceeding, affirmed a district court's decision finding that the Respondent was financially unable to comply with the Board's make-whole order.<sup>14</sup> The Respondent's monetary ability to comply with the make-whole order is not, however, a relevant consideration at this stage of the proceeding. See *E.L.C. Electric, Inc.*, 348 NLRB 301, 302 fn. 6 (2006) ("[I]t is well set-

<sup>10</sup> The Respondent, in its exceptions to the judge's supplemental decision, does not dispute that the governing fund documents provide for liquidated damages and interest based on delinquent payments.

<sup>11</sup> *NLRB v. G & T Terminal Packaging Co.*, 246 F.3d 103, 128 (2d Cir. 2001), in which the court declined to enforce the Board's order providing for liquidated damages, is distinguishable. In that case, unlike here, the applicable trust documents that provided for liquidated damages were not incorporated into the parties' collective-bargaining agreement. See *Ryan Iron Works*, supra at 896 (distinguishing *G & T Terminal* on similar grounds).

<sup>12</sup> See *Ryan Iron Works*, supra at 895 fn. 13 (citing cases).

<sup>13</sup> *Id.* (Member Liebman, concurring). Nor are the applicable percentage rates here impermissible. *Id.*

<sup>14</sup> *NLRB v. Triple A Fire Protection*, 2003 WL 23207692, 174 LRRM 2128 (S.D. Ala. 2003), *affd.* No. 96-6944 (11th Cir. 2003).

tled that the issue in a backpay proceeding is the amount due, not a respondent's ability to pay.”).

## ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified and set forth in full below and orders that the Respondent, Triple A Fire Protection, Mobile, Alabama, its officers, agents, successors, and assigns, shall (1) make whole the individuals named below by paying them the amounts following their names, plus interest on the backpay due the employees as prescribed in *New Horizons*, 283 NLRB 1173 (1987), minus tax withholdings on the backpay due the employees required by Federal and State laws; and (2) make whole the benefit funds in the amounts set forth below, plus interest in the amount of 12 percent and liquidated damages in the amount of 20 percent.

National Automatic Sprinkler Industry Welfare Fund	\$2,918,291.18
National Automatic Sprinkler Industry Pension Fund	2,202,284.10
NASI-Local 669 Industry Education Fund	<u>\$ 118,278.26</u>
SUBTOTAL	\$5,238,853.54
Joseph William Adair	\$ 30,845.06
John R. Albritton	9,721.37
Robert Scott Albritton	3,612.69
Chance Corbett Alday	637.30
Dustin Aaron Allen	329.97
Joshua A. Allen	672.88
Lakendrick D. Allen	451.94
Ryan Christopher Allen	12,818.54
Joshua Lee Amundson	3,142.37
Adam N. Andrews	735.34
Justin Clay Andrews	556.42
John Henry Arendall	61,393.70
William Daniel Armstrong	50,296.60
Joshua Matthew Arnold	6,774.46
Jeffrey Kyle Averette	4,894.88
Jonathan Royce Averette	9,224.62
Randolph P. Bacchus	19,085.44
Bradley Allen Bailey	203.28
Christopher W. Bailey	5,871.53
Coty Jared Bailey	6,714.24
Phillip Edward Bailey	19,719.03
Robert Paul Bailey	934.92
Willie S. Baines, Jr.	1,822.68
Carlton D. Barker, Jr.	19,283.31
Donald L. Barnette	88,390.16
Javier Barrera I	4,096.88
Eric Shane Beech	1,093.43

Joey L. Beech	1,245.09
Michael Chad Bennett	222.72
Jason K. Black	1,672.80
Henry Williams Blevins	3,761.10
Lovevan Bolden	19,514.55
Dale Russell Booth	1,282.67
Nicolas Ryan Boothe	2,886.79
Paul Emmett Botter, Jr.	5,674.90
John S. Bowden	4,565.76
James Eric Bozone	533.61
Gregory Bramlett	53,006.31
Gerry E. Brannon	5,722.02
Alan L. Branton	5,998.06
Craig Michael Breland	2,992.52
Henry Michael Breland	8,102.78
Matthew Breland	8,285.88
Darrell K. Brewer	4,249.09
Charles Dwight Briggs	4,192.43
Elbert B. Briggs, Jr.	1,546.64
Troy P. Brock	1,701.61
John Wesley Brock, Jr.	11,246.75
Richard S. Bromley	1,314.72
Byron B. Brooks	2,466.69
Justin Curtis Brooks	8,510.63
Chad Austin Brown	2,597.24
Jerome Brown	2,943.18
Michael Anthony Brown	51,644.77
William C. Browne	1,151.92
Seth Adam Buckles	1,823.52
Jeremy D. Burns	516.41
Andrew Scott Burt	48,027.85
Dewuane Lamar Busby	2,027.22
William Anthony Byrd	7,934.53
Gregory DeWayne Byrge	355.55
Elmer E. Callhan III	143.52
Chad Daniel Calloway	2,678.00
Steven Michael Campbell	718.17
James L. Cansler	4,722.03
Steven Ross Caraway	1,911.89
Tyler Stacey Carpenter	902.94
Jerry Douglas Carr	8,104.32
Daryle Edward Carter	347.27
Tracy Delaney Chambers	1,548.77
Beau James Chautin	3,384.30
Timothy Chestang	1,927.15
Ricky Shane Clark	56,219.12
William Blake Clark	1,106.64
Steve L. Clark, Jr.	25,643.03
Herman Wesley Clary III	80,809.21
George Cobb	151.52
Rodney I. Connell	8,386.80
James Dustin Cook	6,520.44

Benjamon Ok Cooley	5,667.72	Frank W. Glass	1,965.04
James D. Cooper	440.73	Leonard Bruce Goldman	3,850.91
James Harvey Cowart	1,581.66	Jimmy Wayne Goodman	769.13
William Scott Cowling	2,360.93	John David Grant Goodman	1,824.25
Kevin Cramer	8,283.80	James Payton Goodwin	10,577.10
John Roland Criswell III	31,423.28	Benjamin Adam Gordon	7,298.18
Shane Powell Crowson	7,744.58	Andrew Douglas Gore	3,497.04
Kenneth Lee Cushman	429.84	Joshua Earl Grantham	4,995.40
Tommy Dahl	9,662.45	Michael Lamar Griffin	1,902.18
Gary A. D'Angelo	5,691.84	Shawn Kyle Griffin	2,211.65
Brent Colin Daughdrill	4,683.69	Curtis Lamar Grimes	33,413.81
Donald Wayne Davidson	248.22	Jason A. Guy	4,862.85
Jason Bernard Davis	2,679.04	James Floyd Guy II	3,244.65
Jeffrey B. Davison	515.04	Bradley Ray Hall	2,907.29
Joshua Aaron Deakle	1,931.54	Duffy W. Hall	12,904.64
Cecil L. Daw, Jr.	534.11	Randal Shane Hamblin	1,340.88
Scott J. DeRouen	7,027.40	Terry A. Hamilton	142.89
Keith Alan Dickerson	355.37	Terry Allen Hamilton	611.42
Lance Elliott Diehl	310.56	Timothy Paul Hammac	338.80
Samuel David Doggett	6,319.68	Timothy Jason Harbin	7,977.96
Jerry Mason DuBoise, Jr.	3,092.66	Charles Edward Harrell	4,751.67
Michael Shane Duckworth	67,903.96	Dustin Elliott Harrell	303.59
Robert Allen Duke	3,744.48	Terrell Lane Harris	4,417.80
Edward Lee Dunlap	13,708.49	James Howard Harrison	440.73
Michael Shane Easterling	430.56	Dana Edward Hartley	984.88
Philip L. Edmonds	42,673.34	Walter B. Harvison	504.66
Vance C. Edwards	17,079.97	Richard Leo Headrick	5,293.08
Brian James Ellis	1,646.04	John Hedrick	1,861.02
Frankie L. Ellis	2,265.73	Aaron Michael Hedstrom	11,120.07
Michael R. Ellis	7,273.12	Jonathan D. Herring	871.01
Marcus Heath Emerson	14,147.64	Russell Lee Herring	51,163.38
James Kevin Emmons	1,843.95	Matthew M. Hess	675.12
Charles M. Farley	26,215.88	Jesse B. Higginbotham	563.41
Noah A. Farley	5,742.13	John Cecil Hill	4,140.18
Richard Chad Faulkner	12,122.69	Wesley P. Hodge	517.60
Fred W. Ficklin	203.28	Eric D. Holderfield	5,856.84
Robert Samuel Fleming	7,890.30	Michael Jack Holliman	30,669.98
Matthew L. Flint	7,890.30	John T. Holloman	14,442.50
Russell A. Flowers	56,004.21	Garrett Homan	733.24
Steve D. Foster	14,580.84	Clifton Reed Horn	1,558.00
Gordon Wayne Fowler	3,314.52	Tracy Jerome Horn	6,435.98
Markal G. Fowler	5,377.01	Levi Horn, Jr.	107,570.23
Kenneth Paul Foxhall	511.13	Jason Marlin Hoven	35,354.75
Joey Wayne Freeman	18,539.57	Leonard Chapman Hoven	33,920.84
Aaron James Frye	7,629.33	Emmanuel Lamar Howle	847.85
Bradley G. Gartman	4,981.22	Eric Shane Hubbert	12,581.78
Adrian Garza	8,747.37	Jeremy Michael Hudson	4,014.18
Joel Garza	14,559.34	John Austin Huggins	8,190.18
Manuel Garza	7,253.55	Justin Cole Hyatt	1,021.52
Manuel Garza Garza	23,803.89	Anthony Curtis Ingram	9,830.04
Eric LaShaun Gibson	11,452.79	James Danny Ivy	1,229.30
John Gindle	1,370.04	Ricky D. Ivy	1,745.43

Robert T. Jernigan	511.29	Brandon Antoine McCoy	2,841.72
Charles U. Jockisch	6,596.26	Broderick Lexar McCoy	1,435.79
Jerry L. Jockisch	10,839.91	Chris McDonald	22,890.66
David Maurice Johnson	8,545.92	Chad Wayne McDuffie	1,536.63
Jason Johnson	8,545.92	Joshua Ray McDuffie	4,941.60
Jonathan C. Johnson	2,084.07	Craig James McEachrom	12,036.56
Bobby C. Jones	6,190.76	Tillman Roland McGeehee	4,603.22
Gary L. Jones	1,966.88	Chris E. McGinnis	2,032.80
Joseph R. Jones	220.22	Edward McGrew	6,334.22
Michael J. Jones	30,278.07	Teddy D. McIlwain	7,958.76
Randolph Vernon Jones	21,684.51	William Anthony McIlwain	6,049.96
Robert Anthony Jones	674.90	George Douglas McKensie	4,398.72
Curtis William Jordan	8,655.58	James L. McKensie	2,816.70
James T. Keebler	745.36	Gary A. McLain	2,570.65
Brian David Kennedy	4,871.52	Joshua Blake McLaughlin	9,326.40
Kenneth D. Kilburn	6,538.49	William Chase McNair	9,824.22
Johnny A. Kinbrough, Jr.	135.52	Myles Joseph McNichol	8,452.31
Michael Len Kirksey	7,089.50	Christopher M. Miller	75.76
David Leon Kling	82,623.64	Steven Eugene Millsaps	411.51
George Norman Kling, Jr.	81,185.01	Vincent M. Minar	2,554.30
Jeremi R. Knapp	3,271.20	Abraham Mitchell	23,604.39
Joshua Lewayne Knapp	4,206.40	Jerry Wayne Mohren, Jr.	44,886.10
Marcus Allen Koester	1,242.24	Jerome David Moiren	14,623.61
Gregory Glen Kohn	835.20	Donald Jason Morgan	69.70
Charles C. Kyle	9,462.83	Bobby L. Mosley	5,050.11
Edward M. Kyle	57,905.96	Christopher Aaron Mudd	32,160.22
Charles R. LaCombe II	39.40	Fred Gene Murphy	167.16
Matthew Thomas Ladner	181.16	Timothy Earl Murray	849.12
Jeremy Lane Ladnier	15,674.93	Michael William Myles	5,611.50
David Lahman	1,677.06	Deundrak Leshun Napier	11,136.00
Brian Steven Lane	135.52	Joshua Quentin Napier	1,306.09
Bradley L. Latham	151.52	Tracy Napier	7,471.62
Joseph R. Lawshe	4,693.50	Adam Lane Neighbors	897.00
Samuel Alex Lawson	1,373.58	Dustin Baker Nelson	14,666.46
Paul Samuel Leckie	135.93	Jessie Frank Nelson	16,615.69
Daniel Charles Ledbetter	948.64	Samuel Wade Nelson	20,325.20
Richard A. Lee	631.22	Ronald Allen Newman II	101.20
Justin Haas Lins	6,362.47	Grant C. Nichols	66,743.77
Homer Jason Lloyd	306.24	Robert Nichols	243.54
Gene Ray Lloyd, Jr.	3,936.43	Jeremy Richard Nolan	1,360.68
Daryl Wayne Loper	4,569.24	Michael Ryan Nolen	1,014.69
John Carl Lott	8,981.88	Jatten R. Norris	6,525.00
Michael R. Lott	11,772.12	Jonathan Reeves Odom	299.28
Cleveland Lee Mack	5,907.00	Salomon Vasquez Olguin	15,268.28
Jeremy Dewayne Malone	1,175.61	Daniel Lee Oliveira	857.31
Kerry M. Manning	449.03	Joseph Edward Owens	1,112.73
William Barkley Markham	1,287.36	Joseph Hayden Owens	537.01
Stephen Ryan Massey	1,608.08	Anthony Jabari Owes	922.20
Donald W. Matthews, Jr.	1,259.26	Jerome C. Page	868.18
William Thomas Mayo	1,136.40	Alan Fank Parden	103.52
Ryan Eugene McAll	4,541.40	Matthew Brent Parnell	1,910.52
Michael C. McCord	303.40	Dwight D. Patteson	1,956.04

Edward Harold Pegg III	2,727.45	David W. Smith	3,603.57
Marvin Peterson	9,456.90	Jamie Hunter Smith	608.18
James Glenn Philen	23,841.08	Lawrence S. Smith	7,630.72
Steven Blake Phillips	30,467.41	Sedrick L. Smith	3,189.69
Thomas Chad Phillips	16,131.03	Thomas Ray Smith	4,450.90
Zachary E. Phillips	13,352.76	Vaudy Scott Smith	51.76
Jason A. Pierce	6,304.68	Clayton P. Smith, Jr.	19,102.39
Justin Carl Pierce	9,802.25	Carlos Jose Socorro	23,866.18
Samuel L. Pierce	407.12	Joshua T. Southerland	18,517.90
Daryl Lynn Poole	11,314.53	Samuel E. Southerland, Jr.	28,630.89
Dustin Ray Powell	769.93	Brandon Grant Starling	108.78
Ronald Dale Price, Jr.	601.71	David Scott Stearman, Jr.	2,785.01
Michael Price-Williams	3,418.67	Jason H. Sterns	465.85
Timothy W. Primm	2,710.40	Jesse Scott Stewart	2,924.63
Latonio K. Pritchett	993.51	Marlon Elliot Stiers	2,549.47
Kevin Ronald Pugh	7,695.00	Terrell Harlan Still	1,132.25
Donald Gordon Reed	20,048.34	Bennett Raye Stoker	8,128.42
Douglas Alan Reed	10,319.36	Daniel Ryan Stokley	3,841.92
Jonathan D. Reed	522.06	Jason P. Strickland	2,121.74
Ronald V. Reed	17,561.39	Charles J. Stringer	25,156.00
David G. Reed III	51,273.00	Stringfellow, Chad Allen	2,822.85
David Gordon Reed, Jr.	5,621.94	Michael A. Stringfellow	932.88
Michael Shane Rester	1,051.17	Stephen T. Stringfellow	15,830.98
Jacob K. Reynolds	2,446.47	Cbase Allen Sweatt	1,543.28
Dale Rayburn Richard II	634.06	Jonathan W. Sullivan	424.83
James Steven Richardson	2,898.87	Johnny D. Tapper, Jr.	45,785.66
Joshua Keith Richardson	4,639.39	Christopher M. Taylor	28,440.66
John C. Rimmer	6,625.00	Patrick Lee Taylor	401.14
Keith Allen Robinson	592.90	Steven Mark Taylor, Jr.	1,861.00
Timothy M. Robinson	2,533.44	Thomas Lloyd Temple	5,722.02
Michael W. Rodgers	59.40	Philip Alan Thames	15,009.68
Joshua Ryan Rogers	2,115.84	Phillip E. Thornberg	14,240.16
Harvey Rogers, Jr.	2,644.71	George Kevin Thornton	3,224.57
Richard Howard Roper	2,561.28	Mark Ellis Tuberville, Jr.	3,245.10
Richard Roscoe	708.76	Charles Brady Tucker	13,749.48
Kevin Wayne Rush	5,796.60	Chris Kelly Tucker	18,636.75
Justin H. Safarin	2,825.76	James Tucker	1,628.64
Julio Sanchez	7,458.29	Adrian W. Turner	2,906.40
Joshua L. Sanders	37,321.11	Levon Ray Turner	1,558.82
Steven Gerard Schwent	1,697.40	Michael David Turner	38,672.76
Charles Jason Scott	7,496.15	Russell Patrick Turner	2,625.35
Johah Lasagne Scott	5,261.61	Chad Guy Tyler	965.79
Jamie Ryan Seale	57.34	Aric Lee Vertrees	36,358.80
James A. Serritelli, Jr.	254.10	John T. Wade	283.75
Grady D. Sexton	1,567.36	Charles Kennedy Walters	5,129.01
Marc Lee Shamp	1,685.44	Roy C. Ward	890.88
John Benjamin Shelby	5,048.87	Jack T. Ward, Jr.	27,890.47
Zachary Shontreal Shell	1,883.54	Michael Ware	508.20
James Monroe Shinkle	12,382.61	Anthony Blake Wasylow	4,635.76
Billy Joe Simmons	5,590.20	Jesse Steven Watkins	26,940.54
Josh T. Simmons	7,048.83	Shane Wesley Watson	8,360.90
Fred Douglas Sims, Jr.	42,314.12	Vincent Earl Watts	2,446.55

Robert J. Weatherly III	3,571.10
Anthony Elliott Weaver	7,784.76
Douglas Allen Weaver	571.88
James Weaver	5,387.58
Kimmie Rogers Weaver	1,973.95
Tony Elliott Weaver	1,155.36
Louis G. Weaver, Jr.	4,784.54
Brandon Michael Wells	889.63
Earl E. Wheeler	34,846.43
Milton James Wheeler	2,644.75
Michael James White, Jr.	2,358.03
Christopher K. Wiggins	926.28
Randall Eric Wilbur	34,059.61
David A. Wilkerson, Jr.	478.78
Michael B. Willard	420.55
Adam Matthew Williams	1,357.20
Eric Shane Williams	14,167.98
Johnnie Russell Williams	167.04
Joshua Colby Williams	7,762.38
Michael Shane Williams	8,740.16
Patrick Henry Williams	18,437.28
Stephen Shea Williams	376.74
Timothy M. Williams	446.43
Brandon Taylor Wilson	3,740.11
Charles Wade Wilson	57,538.16
John Asher Wilson	3,250.32
John Franklin Wilson	2,256.45
Dell Lee Wright	719.72
James Terrell Yates	8,590.62
Brian Franklin Yell	3,455.64
Brian Dewyan Young	597.60
Donnie Ray Zundel, Jr.	1,082.56
SUBTOTAL	\$3,846,526.81
TOTAL	\$9,085,380.35

*Beauford Pines, Esq.*, for the General Counsel.

*Willis C. Darby, Jr., Esq.* and *Elizabeth Darby Rehm, Esq.*, for the Respondent.

*Jason J. Valtos, Esq.* and *William W. Osborne, Jr., Esq.*, for the Charging Party.

#### SUPPLEMENTAL DECISION

##### STATEMENT OF THE CASE

KELTNER W. LOCKE, Administrative Law Judge. Respondent, Triple A Fire Protection, Inc., has been found guilty of committing certain unfair labor practices. This proceeding determines Respondent's liability to make its employees whole, by payments to them and to certain benefit funds for the period April 22, 1991, through April 22, 2008 (the "backpay period"). For brevity, this obligation will be called Respondent's "backpay liability." Because Respondent had not remedied the unfair labor practices as of April 22, 2008, the amount of backpay and benefits has continued to accrue. The computation of those additional amounts must be left to further proceedings.

For the backpay period at issue here, Respondent will discharge its obligations by making payment of \$3,846,526.81 in backpay and \$5,238,854.54 in back benefit fund contributions, together with interest.

#### PROCEDURAL HISTORY

At all material times, the Union, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Road Sprinkler Fitters Local Union No. 669, AFL-CIO, has represented a unit of Respondent's employees.

On October 31, 1994, the Board issued a Decision and Order which found, among other things, the following: (1) That by various acts in February 1991 and March 1993, Respondent violated Section 8(a)(5) and (1) of the Act by bypassing the Union and dealing directly with bargaining unit employees concerning wages, hours, and working conditions. (2) That Respondent violated Section 8(a)(5) and (1) of the Act when, effective April 22, 1991, it unilaterally ceased making required fringe-benefit payments to established benefit plans. (3) That Respondent violated Section 8(a)(5) and (1) of the Act when, effective April 22, 1993, it unilaterally reduced the wage rates for bargaining unit employees hired on or after April 22, 1991.

The Board ordered Respondent to cease and desist from this unlawful conduct and to take certain actions to remedy the unfair labor practices. These actions included the following, if requested by the Union: Resuming participation in and making contributions to the fringe benefit plans to which Respondent had stopped contributions effective April 22, 1991, and rescinding any or all changes in wage rates or benefits which Respondent implemented unilaterally effective April 22, 1991. The Board further ordered Respondent to make whole the unit employees and fringe benefit funds. *Triple A Fire Protection, Inc.*, 315 NLRB 409 (1994).

On March 3, 1998, the United States Court of Appeals for the Eleventh Circuit entered its judgment enforcing the Board's Order. *NLRB v. Triple A Fire Protection, Inc.*, 136 F.3d 727 (1998), cert. den. sub nom. *Triple A Fire Protection v. NLRB*, 30 325 U.S. 1067 (1999).

Thereafter, the Board initiated compliance proceedings. On July 1, 2008, the Regional Director for Region 15 of the Board issued a Third Amended Compliance Specification and Notice of Hearing (the "Specification").

On August 18, 2008, Respondent filed an answer to the Specification, admitting in part and denying in part the allegations in the Specification, and raising certain affirmative defenses.

On November 12, 2008, the Union filed a motion to strike portions of Respondent's answer. On November 21, 2008, the General Counsel filed a motion in support of the Union's motion. On December 5, 2008, the Board issued an Order granting in part the motion to strike and granting in full the motion for partial summary judgment.

On December 11, 2008, Respondent filed a motion to file an out-of-time response to the Union's motion. On December 17, 2008, the Board issued an Order rescinding its December 5, 2008, Order and a Notice to Show Cause why the Union's motions should not be granted. The Order further stated that in light

of these rulings, Respondent's motion to file a response out of time was moot.

On December 19, 2008, Respondent filed a response to the Union's motion for partial summary judgment. The Union filed a brief in reply.

On January 5, 2009, Respondent filed a motion for summary judgment. The General Counsel and the Union thereafter, filed briefs in opposition.

On January 30, 2009, the Board issued a Supplemental Decision and Order which granted portions of the Union's motion to strike and portions of the Union's motion for partial summary judgment and denied Respondent's motion for summary judgment. *Triple A Fire Protection, Inc.*, 353 NLRB 838 (2009).

On May 4 and 5, 2009, I conducted a hearing in this matter in Mobile, Alabama. Thereafter, the parties filed briefs.

The Board's January 30, 2009 Decision

*a. Allegations Deemed Substantiated*

Section 102.56(b) of the Board's Rules and Regulations establishes the standard for judging whether a respondent sufficiently has answered the allegations raised by a compliance specification. Denials "shall fairly meet the substance of the allegations of the specification at issue." Moreover, as to "all matters within the knowledge of the respondent . . . a general denial shall not suffice. As to such matters, if the respondent disputes either the accuracy of the figures in the specification or the premises on which they are based, the answer shall specifically state the basis for such disagreement, setting forth in detail the respondent's position as to the applicable premises and furnishing the appropriate supporting figures."

If a respondent fails to comply with these requirements, the Board may, pursuant to Section 102.56(c), "either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate."

In its January 30, 2009, Supplemental Decision and Order, the Board concluded that Respondent did not answer paragraphs 7 through 10 of the Specification with the specificity required by Section 102.56(b). In reaching this conclusion, the Board considered both Respondent's answer to the Specification and the arguments it advanced in response to the Union's motion. However, these additional arguments and assertions did not cure the defects in Respondent's answer.

Granting portions of the Union's motion, the Board found substantiated the allegations raised in Specification paragraphs 7 through 10. Based upon the Board's grant of summary judgment with respect to these paragraphs (which are identified by number below) I make the following findings:

7. An appropriate measure of the backpay (wages) due the 423 employees identified in the Specification's appendices is the number of hours worked times the wage differential (i.e., the difference between the contractual hourly wage rate of \$15.47 and the reduced rate paid by the Respondent).

8. The wages due these employees are set forth in appendices to the Specification, specifically, Appendix B - 1991 through

Appendix B - 2008 (a year-by-year account) and summarized in Appendix C.

9. Pursuant to Articles 19 through 21 of the collective-bargaining agreement, for each hour worked the Respondent was obligated to remit the following amounts for each employee to the funds named below:

National Automatic Sprinkler Industry Welfare Fund: \$2.65 (per hour).

National Automatic Sprinkler Industry Pension Fund: \$2.00 (per hour).

NASI-Local 669 Industry Education Fund: \$ 0.18 (per hour).

Total Hourly Funds Contribution Rate: \$4.83 (per hour).

10. An appropriate measure of amounts owed the Union benefit funds for Sprinkler Fitter Journeymen or Apprentices employed under the National Agreement of 1988-1991 at any time during the period beginning April 22, 1991, through April 22, 2008 is the number of hours multiplied by the Total Hourly Funds Contribution Rate of \$4.83 an hour. Calculations are performed on a yearly basis for each covered employee. An example of the amount owed to the three funds for an individual employed in 1991, is the number of hours worked by a covered employee in 1991 times \$4.83 per hour.

*b. Defenses Stricken*

The Union moved to strike certain affirmative defenses raised by Respondent. The Board granted portions of the motion to strike because these defenses raised issues which had been litigated and decided in the underlying unfair labor practice proceeding. Specifically, the Board struck the following defenses:

First Defense: That the Board's regional director had no authority to include in the underlying complaint paragraphs alleging that the Union was the Section 9(a) representative of an appropriate unit and that Respondent violated Section 8(a)(5) and (I).

Second Defense: That the Union terminated the parties' contract at midnight, March 31, 1991, and struck the Respondent.

Fourth Defense: That the union-security clause of the parties' contract expired on March 31, 1991. (That clause provides, among other things, that nonmember employees shall be paid at the contractual journeyman's rate with contributions to the benefit plans.) This defense further asserted that the journeyman's rate provision cited in Respondent's third defense "became inoperable" on April 1, 1991, when, according to Respondent's claim, the employees engaged in a strike of the Respondent.

Twelfth Defense: That the Union tried to force the Respondent to select the National Fire Sprinkler Association as Respondent's collective-bargaining representative in violation of Section 8(b)(I)(B) of the Act and that the Union engaged in piecemeal bargaining.

At this stage of the proceeding, Respondent may not resurrect and reiterate assertions which the Board considered and

rejected earlier. Accordingly, Respondent may not be heard to assert that the Union was not the exclusive representative of bargaining unit employees pursuant to Section 9(a) of the Act. Respondent also may not be heard to assert that the Union terminated the parties contract at midnight, March 31, 1991, or that the Union engaged in a strike against Respondent. Just as Respondent may not at this point assert that the Union engaged in a strike, it may not be heard to claim that this (nonexistent) strike rendered the collective-bargaining agreement “inoperable.”

The Board struck Respondent’s twelfth defense “insofar as it depends on the contentions that the Union unlawfully engaged in piecemeal bargaining or that the Union bargained in bad faith with no intention to agree to a contract other than one which mirrored the national collective-bargaining agreement between the Union and the National Fire Sprinkler Association.” Accordingly, these matters are not in issue in this proceeding.

Of course, Respondent may not be heard to deny that it violated Section 8(a)(5) and (1) of the Act. The prior decisions of the Board and the United States Court of Appeals settle that issue conclusively.

In addition to striking Respondent’s defenses discussed above, the Board also struck paragraph 4 of Respondent’s Answer “insofar as it denies that the Respondent unilaterally reduced wages or asserts that the Union commenced a strike against the Respondent at midnight on March 31, 1991.”

#### *c. Defenses Not Stricken*

The Board’s January 30, 2009 Decision and Order did not strike Respondent’s eighth defense, which asserts that the Union lost its majority status on or before January 17, 1992. The Board declined to strike this defense, “without prejudice to its raising these arguments before the administrative law judge.”

#### *d. Respondent’s Motion for Summary Judgment*

As noted above, the Board’s January 30, 2009 Supplemental Decision and Order denied Respondent’s motion for summary judgment in its entirety.

#### WITHDRAWN ALLEGATION

During the hearing, the General Counsel withdrew Specification Paragraph 12, which had alleged that Respondent also was required to make individuals whole for certain medical expenses. Withdrawal of this paragraph removes it from my consideration and I make no findings regarding it.

#### ANALYSIS

Specification paragraph 1 alleges that the Board found that at least since October 1986, the Union has been the 9(a) exclusive bargaining representative of the Respondent’s employees in a bargaining unit described as:

All Journeymen Sprinkler Fitters and Apprentices employed by Triple A Fire Protection who are engaged in all work as set forth in Article 18 of the national agreement of 1988–1991.

Respondent’s answer admitted this allegation with the qualification that the collective-bargaining agreement only applied to field construction employees and excluded shop employees.

The collective-bargaining agreement does not make a distinction between “shop employees” and “field employees.”

Moreover, credible testimony establishes that Respondent’s “shop employees” also performed work in the field. Conversely, no credible evidence suggests that any individual was excluded from the bargaining unit because he or she primarily worked in the shop.

The Specification identifies those employees for whom the General Counsel seeks a make whole remedy. Respondent has not proven that any of these workers was not a member of the bargaining unit.

In sum, I conclude that the General Counsel has proven the allegations raised by Specification Paragraph 1.

Specification paragraph 2 alleges that the Board found that, effective April 22, 1991, Respondent violated Section 8(a)(5) and (1) of the Act when it ceased making the required fringe benefit payments to established benefit plans. Respondent has admitted this allegation. Moreover, because the Board already decided this matter in the underlying unfair labor practice proceeding, it may not be relitigated now. Accordingly, I find that the General Counsel has proven the allegations raised in Specification paragraph 2.

Specification paragraph 3 alleges that the Board found that effective April 22, 1991, Respondent violated Section 8(a)(5) and (1) of the Act when it unilaterally reduced wages below the contractual wage rate of \$15.47 per hour. In its answer, Respondent partially admitted this allegation but denied that it reduced the wages of any incumbent employee at any time.

The Board already has found that Respondent violated the Act by unilaterally reducing wage rates and that issue may not be relitigated here. Respondent might still, of course, litigate whether individuals listed in the Specification were members of the bargaining unit and therefore affected by the unlawful wage rate reduction. In theory, other grounds might exist to support an argument that a certain listed individual was not affected by the unlawful wage rate reduction. One hypothetical example might concern an employee whom the bookkeeping department overlooked when it reduced the wage rates of other employees and whose wage rate, therefore, was not reduced.

However, Respondent would know of any such instances because it has custody of its own payroll records. Therefore, under Section 102.56(b) of the Board’s Rules, Respondent had a duty to set forth in its answer the specific details and to provide supporting figures. Respondent’s answer did not. In the absence of such figures and persuasive evidence to establish their accuracy, I conclude that the General Counsel has proven the allegations raised in Specification paragraph 3.

Paragraph 4 of the Specification alleges that the backpay period alleged in the Specification begins April 22, 1991, when Respondent ceased remitting the fringe benefit payments and unilaterally reduced wages. In its October 31, 1994 Supplemental Decision, the Board found that Respondent made the unilateral changes on April 22, 1991, and that finding may not be relitigated now. Specification paragraph 4 simply alleges that the backpay period began the day after the unfair labor practices. I conclude that the General Counsel has proven the allegations raised in Specification paragraph 4.

Specification paragraph 5 alleges that the backpay period is ongoing and will continue until Respondent resumes the payment of the proper wage rates and the remittance of fringe benefit contributions. It further alleges that the figures set forth in the Specification only cover the period from April 22, 1991, through April 22, 2008. Respondent stipulated at hearing that it had not resumed payment at these wage rates. I conclude that the General Counsel has proven the allegations raised in Specification paragraph 5.

Specification paragraph 6 alleges that during the period beginning April 22, 1991, through April 22, 2008, the Respondent, at various times, employed a total of 423 employees. The Specification identified these employees in its Appendix A. Based upon the entire record, and in the absence of credible evidence that any of the listed individuals did not work in the bargaining unit during a portion of this period, I find that the General Counsel has proven the allegations raised in Specification paragraph 6.

In its January 30, 2009 Supplemental Decision and Order, the Board granted summary judgment with respect to the allegations in Specification paragraphs 7 through 10. Accordingly, I conclude that the General Counsel has established these allegations.

One portion of Respondent's backpay liability arises because Respondent failed to make contributions, on behalf of employees, to certain benefit funds, as required by the collective-bargaining agreement. One of these funds is an education fund.

During the hearing, the General Counsel elicited testimony from the compliance officer who performed the calculations described in the Specification. She testified that the Specification assumes that Respondent should have paid 18 cents to the education fund for every hour worked by an employee, but that the calculations instead should have been based on a rate of 10 cents per hour.

The General Counsel introduced into evidence, as General Counsel's Exhibit 4, corrected calculations based upon the 10-cents-per-hour rate. The compliance officer testified, and I find, that this correction decreased the Respondent's backpay liability (from the amount described in the Specification) by \$79,455.90.

#### Respondent's "Loss of Majority Status" Defense

Respondent's eighth defense asserted that the Union lost its majority status on or before January 17, 1992, that none of the employees hired after April 1, 1991, paid dues, that no grievances were filed after April 8, 1991, and that on November 15, 1999, a decertification petition was filed on behalf of 25 of 28 bargaining unit employees. The Board's January 30, 2009 Supplemental Decision and Order denied the Union's motion to strike this defense, "without prejudice to its raising these arguments before the administrative law judge."

During the hearing, Respondent sought to modify its eighth defense to correct what its counsel indicated was an inadvertent error. Instead of asserting that the Union lost its majority status on or before January 17, 1992, the defense, as modified, would aver that the Union lost its majority status on or after January 17, 1992.

Respondent's counsel represented that his use of the word "before" was an inadvertent error: "I did not mean to say 'before,' but I surely said it." Accepting counsel's representation that use of "before" was an unintended error, I will consider whether the Union lost its majority status at any time, either before or after January 17, 1992.

Although the present facts are somewhat different from those before the Board in *Levitz Furniture Co. of the Pacific, Inc.*, 333 NLRB 717 (2001), that decision reiterates two well-established principles which are relevant here. First, an employer contesting an incumbent union's majority status must rebut the continuing presumption that the union enjoys such status.

Second, employers may not withdraw recognition in a context of serious unremedied unfair labor practices tending to cause employees to become disaffected from the union. See, e.g., *Williams Enterprises*, 312 NLRB 937, 939-940 (1993), *enfd.* 50 F.3d 1280 (4th Cir. 40 1995).

No evidence indicates that the Union disavowed its status as exclusive bargaining representative or otherwise abandoned the bargaining unit employees. To the contrary, the evidence clearly demonstrates that the Union has continued its efforts to vindicate the employees who have been harmed by Respondent's unfair labor practices.

Respondent's unlawful unilateral changes in terms and conditions of employment clearly signaled that the ordinary way a union represents employees—in negotiations with the employer—was not working. Instead, the Union took legal steps to require Respondent to bargain with it in good faith and to remedy the unfair labor practices which harmed that relationship.

The present case began when the Union filed the unfair labor practice charge against Respondent almost 2 decades ago. Since then, the Union has sought justice on behalf of the employees with remarkable tenacity. The Union participated, through its attorney, in the initial unfair labor practice hearings before Judge Linton. After issuance of the Specification, the Union moved to strike portions of Respondent's answer.

Union Counsel fully participated in the compliance hearing before me and filed a posthearing brief. It did not have to do so.

The General Counsel, acting on behalf of the government, has responsibility for prosecuting an unfair labor practice case and a charging party—in this case the Union—has no duty at all to retain counsel or incur legal expenses. If the Union had abandoned the bargaining unit employees, as Respondent claims, it seems rather unlikely that it would have sent an attorney from Washington, D.C. to Mobile, Alabama, to represent the employees' interests vigorously during the compliance proceeding.

Moreover, Respondent's violations of the Act—unilateral changes in terms of employment without first bargaining with the Union—are precisely the type of unfair labor practice likely to cause employees to be disaffected. Applying an objective standard, I conclude that Respondent's unlawful unilateral changes likely would make employees regard the Union as ineffectual.

Respondent admits that it has not remedied these unfair labor practices. Accordingly, I reject the Respondent's argument that the Union had, at some point, lost its majority status. Respond-

ent has not carried its burden of rebutting the presumption that the Union's majority status continues.

#### Respondent's Financial Inability Argument

Respondent argues that it lacks the financial ability to make the employees whole. Such an argument addresses an issue not really before me. In a compliance proceeding, the judge does not look in a respondent's pocket but rather focuses on the harm caused by the unlawful conduct to determine what the respondent must do to remedy it.

In a compliance proceeding, the judge does not impose any new burden on a respondent. A respondent already bears a burden because it already has been found guilty of violating the law in a way that caused harm. The compliance judge simply quantifies that existing burden. Doing so—determining the cost of making whole those hurt by the unlawful conduct—serves two purposes. It does justice to the discriminatees by assuring that they ultimately suffer no loss, and it does justice to the respondent by assuring that the amount which must be paid is remedial rather than punitive.

The compliance judge has no authority to increase or reduce a respondent's liability but simply has the responsibility to measure it. Therefore, a respondent's argument that it cannot pay essentially asks the judge to exceed the scope of his authority and consider information irrelevant to his duty.

A respondent's inability to pay does not constitute a defense to the determination of backpay liability. *Star Grocery Co.*, 245 NLRB 196, 197 (1970); *Coal Rush Mining, Inc.*, 341 NLRB 32, 33 fn. 2 (2004). Accordingly, the evidence Respondent offered to support its inability-to-pay argument is immaterial to any issue properly before me and I reject Respondent's defense without regard to that evidence.

However, were I to examine the evidence which Respondent presented to support its inability-to-pay argument, I would conclude that it fell short of establishing such inability. Although Respondent called two accountants to testify, neither based his opinion solely on evidence verified by audit conducted in accordance with generally accepted accounting principles. Rather, much of the information used by the accountants resulted from "reviews" of the documentation which Respondent provided.

A "review" is a less exacting accounting procedure which relies upon documents which Respondent provided to its accountant. In an audit, the accountant's own independent efforts to verify the information results in a degree of trustworthiness which a mere review lacks.

In any case, I would accord less weight to an accountant's opinion based on a "review" than to an accountant's opinion based on an audit. Additionally, based upon the present record, I have some particular concerns about the reliability and completeness of financial documents which Respondent furnished to its accountants.

My concerns arise, in part, because Respondent provided at least some of this information to the accountants in connection with the present litigation and, it appears, in anticipation of their testimony at hearing. Moreover, Respondent's past actions in this case have not inspired me to conclude that ordinary caution should be suspended. In other words, Respondent bore the burden of persuasion that its witnesses, the accountants, based

their opinions on accurate and complete information about its financial situation. Respondent did not carry this burden.

In addition to doubts about the quality and completeness of the information considered by the accountant witnesses, another factor affects the weight to be accorded their opinions. It is appropriate to consider whether an accountant conducting a review has brought to that task a critical and questioning frame of mind. Other things being equal, the opinion of a skeptical and probing accountant weighs more than the opinion of one who is content to accept on faith the verity of a client's unsubstantiated revelations.

One of the accountants, James Hecker, testified that he did not review Respondent's bank statements. Based upon this and other parts of Hecker's testimony, I conclude that he made little effort to confirm the accuracy of the information Respondent provided him. It appears that a doubting and inquisitive attitude did not temper Hecker's analysis.

Moreover, as I noted at trial, the evidence was insufficient to establish that the unsigned, unverified financial documents which Respondent provided to Hecker were accurate. Because I have no confidence in the information upon which Hecker based his opinion, I likewise have no confidence in his opinion itself.

The other accountant who testified, Jerome Olsen, described an analysis he performed based upon financial information provided by Respondent and the financial reports he had prepared using such information. Some of these financial reports were audited and others, he testified, were unaudited.

His analysis involved computing the length of an "operating cycle," determining the amount of working capital required for that operating cycle, and comparing that with the amount of actual working capital available. Olsen testified that he "did an analysis of about ten jobs" and used that information, together with the information from Respondent's 2008 financial statement, to compute the length of an operating cycle, which he concluded was 133.91 days.

Olsen testified that he calculated that \$2,656,382 in working capital would be required for one operating cycle. He further testified that "the actual working capital that Triple A had as of December 31 was \$1,196,228, so the shortfall was \$1,460,154."

For several reasons, Olsen's testimony falls short of establishing a financial inability to pay. Most fundamentally, Olsen based his calculations on information supplied by Respondent, but, based upon the present record, I cannot conclude that such information was accurate and complete. Thus, Olsen's opinion turns on an unknown, the quality of the information. Because of the principle "garbage in, garbage out," I cannot simply assume that some kind of accounting wizardry miraculously made up for any defects in the information itself.

Olsen testified that he analyzed "about ten jobs" and used that information in his determination of the length of an operating cycle. However, the record does not establish that he selected these jobs at random or that they otherwise are a representative sampling. This reason alone casts some doubt on the reliability of his calculation.

Moreover, Olsen did not explain, and the record otherwise does not establish, why a shortfall in working capital at one particular instant in time would support the conclusion that

Respondent would remain in that financial condition indefinitely or be unable to satisfy its obligations in the future.

The particular instant in time chosen by Olsen—December 31, 2008—is not representative. At least, we all may hope that conditions on this particular date do not predict the future health of American businesses. Rather, December 31, 2008, came at the peak, or approximately the peak, of a serious nationwide financial crisis which now may be abating.

This financial crisis deeply affected the real estate sector, which Respondent serves by the provision of fire prevention systems and services. Therefore, I cannot assume without evidence that the crisis had no transient effect on Respondent's financial condition. Even assuming that Olsen's testimony supported a finding of inability to pay on December 31, 2008—a conclusion subject to considerable doubt—it does not establish a continuing inability to pay thereafter, as the economy improved.

In sum, even were I to consider Respondent's inability-to-pay defense, which is not within my purview, I would reject it as unsupported by credible evidence.

#### The Issue of "Liquidated Damages"

Based on the credited testimony of the Board's compliance officer, Debra Warner, and of the trust funds' administrator, Michael Jacobson, as well as supporting documentary evidence, I find that Respondent had agreed both to make payments to the trust funds on behalf of its employees and, when it delayed those payments to the point of untimeliness, to pay a delinquency penalty. The parties have referred to this latter assessment as "liquidated damages and interest." Further, I find that on occasions in the past, Respondent had made such payments.

Contrary to Respondent, I conclude that such "liquidated damages and interest" properly should be included as part of Respondent's backpay obligation. In reaching this conclusion, I rely on long- and firmly-established precedents.

The Act confers upon the Board broad authority to fashion a make-whole remedy, but this broad authority does not extend to the imposition of punitive measures. *Republic Steel Corp. v. NLRB*, 311 U.S. 7, 12 (1940); *Aneco, Inc. v. NLRB*, 285 F.3d 326, 329 (4th Cir. 2002). Each backpay remedy "must be sufficiently tailored to expunge only the actual, and not merely speculative consequences of the unfair labor practices." *Sure-Tan, Inc. v. NLRB*, 467 U.S. 883, 900, 902–904 (1984) (emphasis in original).

In fashioning a backpay order, the objective is to restore "the situation, as nearly as possible, to that which would have obtained but for the illegal discrimination." *Phelps Dodge Corp. v. NLRB*, 313 U.S. 177, 194 (1941). See also *Oil Capitol Sheet Metal, Inc.*, 349 NLRB 1348 (2007). Accordingly, in determining whether an order to pay "liquidated damages" is punitive, it is appropriate to look to the terms and conditions of employment in effect before Respondent unlawfully changed them.

Respondent had a contractual obligation to make contributions to the employee benefit trust funds *in accordance with its agreement with the Union*. Under well-established Board law, this obligation continued even after the expiration date of the collective-bargaining agreement because this term and condition of employment constituted a mandatory subject of bargain-

ing. In general, an employer may not change such a term and condition of employment except by reaching agreement with the union, reaching a lawful impasse during negotiations, or after the union representing the affected employees has waived its right to bargain. (A very narrow exception does allow a unilateral change in certain exigent circumstances.) See *Food & Commercial Workers Local 653 (Freeman Decorating Co.)*, 335 NLRB 71 (2001).

Respondent had agreed to the contractual provisions requiring the payment of "liquidated damages" to the trust funds and thus this obligation had become a term and condition of employment. It concerned a mandatory subject of bargaining.

This term and condition of employment wasn't simply to pay a trust fund a certain specified amount for every hour worked by the bargaining unit employee. Rather, the term and condition of employment was that Respondent would make payments to the trust funds *in accordance with its agreement*. Failure to satisfy *any* particular obligation created by the agreement constituted a unilateral change in the term and condition of employment.

Thus, requiring Respondent to comply with the liquidated damages portion of its agreement is not punitive. Rather, holding Respondent to the terms of the agreement it made is necessary to restore the status quo ante.

In other cases, the Board has required respondents to pay liquidated damages and/or interest where the respondent has entered into an agreement (either in the collective-bargaining agreement itself or in the separate trust fund agreement) to make such payments under specified circumstances. *Merryweather Optical Co.*, 240 NLRB 1213, 1217 fn. 7 (1979); *J.R.R. Realty Co.*, 301 NLRB 473, 475 fn. 16 (1991). It is similarly appropriate and necessary in the present case.

#### Specification Paragraph 11

Specification paragraph II alleges that the total due the union benefit funds for period April 22, 1991, through April 22, 2008, is set forth in the Specification's Appendix C. However, as discussed above, the amounts for education fund contributions should have been calculated at the rate of \$0.10 per hour rather than \$0.18. Corrected calculations appear in the record in General Counsel's Exhibit 4.

Disputing the General Counsel's calculations, Respondent has raised arguments which the Board already addressed in its January 30, 2009 Supplemental Decision and Order. For example, Respondent asserted that none of the Specification's paragraphs states a cause of action for payments to fringe benefit fund because the Specification does not aver that any employee has a "nonspeculative economic interest" in any of the funds. The Board considered and rejected this argument.

Respondent also had argued that the Specification did not allege that the funds are mandatory subjects of bargaining and that the Specification did not state when any employee obtained an economic interest in any of the funds. The Board considered and rejected these arguments. The Board's January 30, 2009 Supplemental Decision and Order stated, in part:

[T]he Respondent's argument appears to rely in part on the assumption that the Respondent is only required to make fringe benefit payments for employees who have a vested in-

terest in receiving the benefits that the funds provide. However, the Board has never made such a distinction in awarding a make-whole remedy to benefit funds. Rather, if a respondent unilaterally stops making required payments to benefit funds on behalf of any employee, the standard remedy is to require that the funds be made whole for the missed payments, without regard to the "eligibility status" of the employees to actually receive benefits from the funds.

353 NLRB 838, 840. It is neither necessary nor proper for me to entertain arguments which the Board already has considered and rejected.

Based on the record as a whole, I conclude that the General Counsel has proven the allegations raised in Specification paragraph II, as modified by General Counsel's Exhibit 4.

#### Calculations

As already noted, although backpay and benefits continue to accrue, this supplemental decision addresses only the period alleged in the Specification: April 22, 1991, through April 22, 2008. Respondent will satisfy its make whole obligations for this period by payment of the following amounts, together with interest:

Employee	Total Backpay	H & W Fund	Pension Fund	Education Fund	Total Fund Contributions	Total Backpay & Fund Contributions
Joseph William Adair	\$ 30,845.06	\$ 14,846.63	\$ 11,205.00	\$ 560.25	\$ 26,611.88	\$ 57,456.94
John R. Albritton	9,721.37	3,103.15	2,342.00	117.10	5,562.25	15,283.62
Robert Scott Albritton	3,612.69	1,290.55	974.00	48.70	2,313.25	5,925.94
Chance Corbett Alday	637.30	259.70	196.00	9.80	465.50	1,101.80
Dustin Aaron Allen	329.97	135.15	102.00	5.10	242.25	572.22
Joshua A. Allen	672.88	275.60	208.00	10.40	494.00	1,166.88
Lakendrick D. Allen	451.94	160.33	121.00	6.50	287.83	739.77
Ryan Christopher Allen	12,818.54	5,726.65	4,322.00	288.18	10,336.83	23,155.37
Joshua Lee Amundson	3,142.37	983.15	742.00	37.10	1,762.25	4,904.62
Adam N. Andrews	735.34	270.30	204.00	10.20	484.50	1,219.84
Gerald J. Andrews	0.00	4,025.35	3,038.00	151.90	7,215.25	7,215.25
Justin Clay Andrews	556.42	227.90	172.00	8.60	408.50	964.92
John Henry Arendall	61,393.70	20,564.00	15,520.00	776.00	36,860.00	98,253.70
William Daniel Armstrong	50,296.60	33,860.38	25,555.00	1,277.75	60,693.13	110,989.73
Joshua Matthew Arnold	6,774.46	2,704.33	2,041.00	102.05	4,847.38	11,621.84
Jeffrey Kyle Averette	4,894.88	4,780.60	3,608.00	180.40	8,569.00	13,463.88
Jonathan Royce Averette	9,224.62	4,621.60	3,488.00	174.40	8,284.00	17,508.62
Randolph P. Bacchus	19,085.44	6,321.58	4,771.00	238.55	11,331.13	30,416.57
Bradley Allen Bailey	203.28	63.60	48.00	2.40	114.00	317.28
Christopher W. Bailey	5,871.53	2,143.85	1,618.00	80.90	3,842.75	9,714.28
Coty Jared Bailey	6,714.24	2,683.13	2,025.00	101.25	4,809.38	11,523.62
Phillip Edward Bailey	19,719.03	10,230.33	7,721.00	386.05	18,337.38	38,056.41
Robert Paul Bailey	934.92	352.45	266.00	13.30	631.75	1,566.67
Steven C. Bailey	0.00	283.55	214.00	10.70	508.25	508.25
Willie S. Baines, Jr.	1,822.68	646.60	488.00	24.40	1,159.00	2,981.68
Carlton D. Barker, Jr.	19,283.31	8,008.30	6,044.00	302.30	14,354.60	33,637.91
Burney C. Barnes IV	0.00	328.60	48.00	12.40	389.00	389.00
Donald L. Barnette	88,390.16	44,990.38	33,955.00	1,697.75	80,643.13	169,033.29
Javier Barrera	14,096.88	9,628.78	7,267.00	363.35	17,259.13	31,356.01
Richard Allen Beckham	0.00	26.50	20.00	1.00	47.50	47.50
Eric Shane Beech	1,093.43	447.85	338.00	16.90	802.75	1,896.18
Joey L. Beech	1,245.09	389.55	294.00	14.70	698.25	1,943.34
Michael Chad Bennett	222.72	84.80	64.00	3.20	152.00	374.72
Jason K. Black	1,672.80	540.60	408.00	20.40	969.00	2,641.80
Henry Williams Blevins	3,761.10	1,669.50	1,260.00	63.00	2,992.50	6,753.60
Lovevan Bolden	19,514.55	6,488.53	4,897.00	244.85	11,630.38	31,144.93
Gregory Scott Boles	0.00	503.50	380.00	19.00	902.50	902.50
Dale Russell Booth	1,282.67	1,939.80	1,464.00	73.20	3,477.00	4,759.67
Nicolas Ryan Boothe	2,886.79	1,342.23	1,013.00	50.65	2,405.88	5,292.67
Paul Emmett Botter, Jr.	5,674.90	1,775.50	1,340.00	67.00	3,182.50	8,857.40
John S. Bowden	4,565.76	1,576.75	1,190.00	59.50	2,826.25	7,392.01
James Eric Bozone	533.61	166.95	126.00	6.30	299.25	832.86
Gregory Bramlett	53,006.31	22,786.03	17,197.00	859.85	40,842.88	93,849.19
Gerry E. Brannon	5,722.02	2,029.90	1,532.00	76.60	3,638.50	9,360.52
Alan L. Branton	5,998.06	14,062.23	10,613.00	530.65	25,205.88	31,203.94
Craig Michael Breland	2,992.52	837.40	632.00	31.60	1,501.00	4,493.52
Henry Michael Breland	8,102.78	5,314.58	4,011.00	200.55	9,526.13	17,628.91
Matthew Breland	8,285.88	3,142.90	2,372.00	118.60	5,633.50	13,919.38
Darrell K. Brewer	4,249.09	15,738.35	11,878.00	593.90	28,210.25	32,459.34
Charles Dwight Briggs	4,192.43	1,714.55	1,294.00	64.70	3,073.25	7,265.68
Elbert B. Briggs, Jr.	1,546.64	734.05	554.00	27.70	1,315.75	2,862.39
Troy P. Brock	1,701.61	641.30	484.00	24.20	1,149.50	2,851.11
John Wesley Brock, Jr.	11,246.75	3,843.83	2,901.00	145.05	6,889.88	18,136.63
Richard S. Bromley	1,314.72	466.40	352.00	17.60	836.00	2,150.72
Byron B. Brooks	2,466.69	947.38	715.00	35.75	1,698.13	4,164.82
Justin Curtis Brooks	8,510.63	3,211.80	2,424.00	121.20	5,757.00	14,267.63
Chad Austin Brown	2,597.24	993.75	750.00	37.50	1,781.25	4,378.49
Jerome Brown	2,943.18	1,044.10	788.00	39.40	1,871.50	4,814.68
Michael Anthony Brown	51,644.77	62,555.90	47,212.00	2,360.60	112,128.50	163,773.27
William C. Browne	1,151.92	360.40	272.00	13.60	646.00	1,797.92
Seth Adam Buckles	1,823.52	694.30	524.00	26.20	1,244.50	3,068.02
Jeremy D. Burns	516.41	222.60	168.00	8.40	399.00	915.41

Employee	Total Backpay	H & W Fund	Pension Fund	Education Fund	Total Fund Contributions	Total Backpay & Fund Contributions
Andrew Scott Burt	48,027.85	58,091.98	43,843.00	2,192.15	104,127.13	152,154.98
Dewuane Lamar Busby	2,027.22	598.90	452.00	22.60	1,073.50	3,100.72
William Anthony Byrd	7,934.53	3,470.18	2,619.00	130.95	6,220.13	14,154.66
Gregory DeWayne Byrge	355.55	159.00	120.00	6.00	285.00	640.55
Quarre S. Calhoun	0.00	609.50	460.00	23.00	1,092.50	1,092.50
Elmer E. Callhan III	143.52	42.40	32.00	1.60	76.00	219.52
Chad Daniel Calloway	2,678.00	950.03	717.00	35.85	1,702.88	4,380.88
Steven Michael Campbell	718.17	275.60	208.00	10.40	494.00	1,212.17
James L. Cansler	4,722.03	1,477.38	1,115.00	55.75	2,648.13	7,370.16
Steven Ross Caraway	1,911.89	739.35	558.00	27.90	1,325.25	3,237.14
Robert D. Carpenter	0.00	1,832.48	1,383.00	69.15	3,284.63	3,284.63
Tyler Stacey Carpenter	902.94	535.30	404.00	20.20	959.50	1,862.44
Jerry Douglas Carr	8,104.32	3,731.20	2,816.00	140.80	6,688.00	14,792.32
Daryle Edward Carter	347.27	108.65	82.00	4.10	194.75	542.02
Tracy Delaney Chambers	1,548.77	8,071.90	6,092.00	304.60	14,468.50	16,017.27
Beau James Chautin	3,384.30	1,270.68	959.00	47.95	2,270.63	5,661.93
Timothy Chestang	1,927.15	539.28	407.00	20.35	966.63	2,893.78
Ricky Shane Clark	56,219.12	44,186.76	33,348.50	1,667.43	79,202.69	135,421.82
William Blake Clark	1,106.64	421.35	318.00	15.90	755.25	1,861.89
Steve L. Clark, Jr.	25,643.03	8,301.13	6,265.00	313.25	14,879.38	40,522.41
Herman Wesley Clary III	80,809.21	48,830.23	36,853.00	1,842.65	87,525.88	168,335.09
George Cobb	151.52	42.40	32.00	1.60	76.00	227.52
Rodney I. Connell	8,386.80	3,125.68	2,359.00	117.95	5,602.63	13,989.43
James Dustin Cook	6,520.44	2,329.35	1,758.00	87.90	4,175.25	10,695.69
Benjamon Ok Cooley	5,667.72	2,196.85	1,658.00	82.90	3,937.75	9,605.47
James D. Cooper	440.73	156.35	118.00	5.90	280.25	720.98
James Harvey Cowart	1,581.66	588.30	444.00	22.20	1,054.50	2,636.16
William Scott Cowling	2,360.93	16,946.75	12,790.00	639.50	30,376.25	32,737.18
Kevin Cramer	8,283.80	2,447.28	1,847.00	92.35	4,386.63	12,670.43
John Roland Criswell III	31,423.28	10,993.53	8,297.00	414.85	19,705.38	51,128.66
Shane Powell Crowson	7,744.58	3,215.78	2,427.00	121.35	5,764.13	13,508.71
Kenneth Lee Cushman	429.84	190.80	144.00	7.20	342.00	771.84
Tommy Dahl	9,662.45	4,143.28	3,127.00	156.35	7,426.63	17,089.08
Gary A. D'Angelo	5,691.84	1,780.80	1,344.00	67.20	3,192.00	8,883.84
Brent Colin Daughdrill	4,683.69	2,241.91	1,692.00	84.60	4,018.51	8,702.20
Cecil P. Davidson	0.00	1,499.90	1,132.00	56.60	2,688.50	2,688.50
Donald Wayne Davidson	248.22	333.90	252.00	12.60	598.50	846.72
Jason Bernard Davis	2,679.04	1,154.08	871.00	43.55	2,068.63	4,747.67
Jeffrey B. Davison	515.04	196.10	148.00	7.40	351.50	866.54
Joshua Aaron Deakle	1,931.54	2,053.75	1,550.00	77.50	3,681.25	5,612.79
Cecil L. Daw, Jr.	534.11	189.48	143.00	7.15	339.63	873.74
Scott J. DeRouen	7,027.40	4,978.03	3,757.00	187.85	8,922.88	15,950.28
Keith Alan Dickerson	355.37	210.68	159.00	7.95	377.63	733.00
Lance Elliott Diehl	310.56	127.20	96.00	4.80	228.00	538.56
Samuel David Doggett	6,319.68	2,395.60	1,808.00	90.40	4,294.00	10,613.68
Jerry Mason DuBoise, Jr.	3,092.66	1,150.10	868.00	43.40	2,061.50	5,154.16
Michael Shane Duckworth	67,903.96	53,328.60	40,248.00	2,012.40	95,589.00	163,492.96
Robert Allen Duke	3,744.48	1,401.85	1,058.00	52.90	2,512.75	6,257.23
Edward Lee Dunlap	13,708.49	4,837.58	3,651.00	182.55	8,671.13	22,379.62
James L. Dykes, Jr.	0.00	830.78	627.00	31.35	1,489.13	1,489.13
Michael Shane Easterling	430.56	127.20	96.00	4.80	228.00	658.56
Philip L. Edmonds	42,673.34	25,913.03	19,557.00	977.85	46,447.88	89,121.22
Vance C. Edwards	17,079.97	10,675.53	8,057.00	402.85	19,135.38	36,215.35
Brian James Ellis	1,646.04	622.75	470.00	23.50	1,116.25	2,762.29
Frankie L. Ellis	2,265.73	708.88	535.00	26.75	1,270.63	3,536.36
Michael R. Ellis	7,273.12	5,554.40	4,192.00	209.60	9,956.00	17,229.12
Marcus Heath Emerson	14,147.64	5,734.60	4,328.00	216.40	10,279.00	24,426.64
James Kevin Emmons	1,843.95	692.98	523.00	26.15	1,242.13	3,086.08
Charles M. Farley	26,215.88	11,853.45	8,946.00	447.30	21,246.75	47,462.63
Noah A. Farley	5,742.13	2,175.65	1,642.00	82.10	3,899.75	9,641.88
Richard Chad Faulkner	12,122.69	9,260.43	6,989.00	349.45	16,598.88	28,721.57
Fred W. Ficklin	203.28	63.60	48.00	2.40	114.00	317.28

Employee	Total Backpay	H & W Fund	Pension Fund	Education Fund	Total Fund Contributions	Total Backpay & Fund Contributions
Corey Lee Finley	0.00	185.50	140.00	7.00	332.50	332.50
Robert Samuel Fleming	7,890.30	2,623.50	1,980.00	99.00	4,702.50	12,592.80
Matthew L. Flint	7,890.30	2,623.50	1,980.00	99.00	4,702.50	12,592.80
Russell A. Flowers	56,004.21	100,381.34	75,759.50	3,787.98	179,928.82	235,933.03
Steve D. Foster	14,580.84	5,115.83	3,861.00	193.05	9,169.88	23,750.72
Gordon Wayne Fowler	3,314.52	2,957.40	2,232.00	111.60	5,301.00	8,615.52
Markal G. Fowler	5,377.01	2,604.95	1,966.00	98.30	4,669.25	10,046.26
Kenneth Paul Foxhall	511.13	209.35	158.00	7.90	375.25	886.38
Joey Wayne Freeman	18,539.57	5,812.78	4,387.00	219.35	10,419.13	28,958.70
Aaron James Frye	7,629.33	3,021.00	2,280.00	114.00	5,415.00	13,044.33
Bradley G. Gartman	4,981.22	1,393.90	1,052.00	52.60	2,498.50	7,479.72
Adrian Garza	8,747.37	2,867.30	2,164.00	108.20	5,139.50	13,886.87
Joel Garza	14,559.34	5,783.63	4,365.00	218.25	10,366.88	24,926.22
Manuel Garza	7,253.55	2,938.85	2,218.00	110.90	5,267.75	12,521.30
Manuel Garza Garza	23,803.89	9,434.00	7,120.00	356.00	16,910.00	40,713.89
Eric LaShaun Gibson	11,452.79	4,387.08	3,311.00	165.55	7,863.63	19,316.42
John Gindle	1,370.04	4,135.33	3,121.00	156.05	7,412.38	8,782.42
Frank W. Glass	1,965.04	614.80	464.00	23.20	1,102.00	3,067.04
Jimmie Jerome Goggins	0.00	18,934.38	14,290.10	714.51	33,938.99	33,938.99
Leonard Bruce Goldman	3,850.91	1,995.45	1,506.00	75.30	3,576.75	7,427.66
Jimmy Wayne Goodman	769.13	726.10	548.00	27.40	1,301.50	2,070.63
John David Grant Goodman	1,824.25	863.90	652.00	32.60	1,548.50	3,372.75
James Payton Goodwin	10,577.10	4,022.70	3,036.00	151.80	7,210.50	17,787.60
Benjamin Adam Gordon	7,298.18	2,683.13	2,025.00	101.25	4,809.38	12,107.56
Andrew Douglas Gore	3,497.04	1,391.25	1,050.00	52.50	2,493.75	5,990.79
Joshua Earl Grantham	4,995.40	2,004.73	1,513.00	75.65	3,593.38	8,588.78
Michael Lamar Griffin	1,902.18	779.10	588.00	29.40	1,396.50	3,298.68
Shawn Kyle Griffin	2,211.65	1,054.70	796.00	39.80	1,890.50	4,102.15
Curtis Lamar Grimes	33,413.81	15,058.63	11,365.00	568.25	29,991.88	60,405.69
Jason A. Guy	4,862.85	1,360.78	1,027.00	51.35	2,439.13	7,301.98
James Floyd Guy II	3,244.65	16,732.10	12,628.00	631.40	29,991.50	33,236.15
Bradley Ray Hall	2,907.29	813.55	614.00	30.70	1,458.25	4,365.54
Duffy W. Hall	12,904.64	9,457.85	7,138.00	356.90	16,952.75	29,857.39
Randal Shane Hamblin	1,340.88	874.50	660.00	33.00	1,567.50	2,908.38
Terry A. Hamilton	142.89	54.33	41.00	2.05	97.38	240.27
Terry Allen Hamilton	611.42	250.43	189.00	9.45	448.88	1,060.30
Timothy Paul Hammac	338.80	106.00	80.00	4.00	190.00	528.80
Timothy Jason Harbin	7,977.96	2,830.20	2,136.00	106.80	5,073.00	13,050.96
Charles Edward Harrell	4,751.67	1,486.65	1,122.00	56.10	2,664.75	7,416.42
Dustin Elliott Harrell	303.59	140.45	106.00	5.30	251.75	555.34
Terrell Lane Harris	4,417.80	1,696.00	1,280.00	64.00	3,040.00	7,457.80
James Howard Harrison	440.73	156.35	118.00	5.90	280.25	720.98
Dana Edward Hartley	984.88	275.60	208.00	10.40	494.00	1,478.88
Walter B. Harvison	504.66	206.70	156.00	7.80	370.50	875.16
Todd Edison Hawkins	0.00	42,150.23	31,811.50	1,590.58	75,552.31	75,552.31
Richard Leo Headrick	5,293.08	1,958.35	1,478.00	73.90	3,510.25	8,803.33
Robert Keith Hedgepeth	0.00	44,447.80	33,545.50	1,677.28	79,670.58	79,670.58
John Hedrick	1,861.02	3,354.90	2,532.00	126.60	6,013.50	7,874.52
Aaron Michael Hedstrom	11,120.07	4,497.05	3,394.00	169.70	8,060.75	19,180.82
Jonathan D. Herring	871.01	418.70	316.00	15.80	750.50	1,621.51
Russell Lee Herring	51,163.38	83,511.44	63,027.50	3,151.38	149,690.32	200,853.70
Matthew M. Hess	675.12	257.05	194.00	9.70	460.75	1,135.87
Kenneth Higdon, Jr.	0.00	612.15	462.00	23.10	1,097.25	1,097.25
Jesse B. Higginbotham	563.41	272.95	206.00	10.30	489.25	1,052.66
John Cecil Hill	4,140.18	1,555.55	1,174.00	58.70	2,788.25	6,928.43
Wesley P. Hodge	517.60	212.00	160.00	8.00	380.00	897.60
Eric D. Holderfield	5,856.84	2,222.03	1,677.00	83.85	3,982.88	9,839.72
Michael Jack Holliman	30,669.98	12,881.66	9,722.00	486.10	23,089.76	53,759.74
John T. Holloman	14,442.50	7,310.03	5,517.00	275.85	13,102.88	27,545.38
Garrett Homan	733.24	243.80	184.00	9.20	437.00	1,170.24
Clifton Reed Horn	1,558.00	503.50	380.00	19.00	902.50	2,460.50
Tracy Jerome Horn	6,435.98	1,901.38	1,435.00	71.75	3,408.13	9,844.11

Employee	Total Backpay	H & W Fund	Pension Fund	Education Fund	Total Fund Contributions	Total Backpay & Fund Contributions
Levi Horn, Jr.	107,570.23	42,147.59	31,809.50	1,590.48	75,547.57	183,117.80
Jason Marlin Hoven	35,354.75	33,287.98	25,123.00	1,256.15	59,667.13	95,021.88
Leonard Chapman Hoven	33,920.84	19,774.30	14,924.00	746.20	35,444.50	69,365.34
Emmanuel Lamar Howle	847.85	408.10	308.00	15.40	731.50	1,579.35
Eric Shane Hubbert	12,581.78	5,061.50	3,820.00	191.00	9,072.50	21,654.28
Jeremy Michael Hudson	4,014.18	1,495.93	1,129.00	56.45	2,681.38	6,695.56
John Austin Huggins	8,190.18	2,990.53	2,257.00	112.85	5,360.38	13,550.56
Justin Cole Hyatt	1,021.52	483.63	365.00	18.25	866.88	1,888.40
Anthony Curtis Ingram	9,830.04	3,381.40	2,552.00	127.60	6,061.00	15,891.04
James Danny Ivy	1,229.30	503.50	380.00	19.00	902.50	2,131.80
Ricky D. Ivy	1,745.43	580.35	438.00	21.90	1,040.25	2,785.68
Robert T. Jernigan	511.29	151.05	114.00	5.70	270.75	782.04
Charles U. Jockisch	6,596.26	12,525.23	9,453.00	472.65	22,450.88	29,047.14
Jerry L. Jockisch	10,839.91	4,910.45	3,706.00	185.30	8,801.75	19,641.66
David Maurice Johnson	8,545.92	4,312.88	3,255.00	162.75	7,730.63	16,276.55
Jason Johnson	8,545.92	4,312.88	3,255.00	162.75	7,730.63	16,276.55
Jearl Morris Johnson	0.00	4,495.73	3,393.00	169.65	8,058.38	8,058.38
Jonathan C. Johnson	2,084.07	895.70	676.00	33.80	1,605.50	3,689.57
Bobby C. Jones	6,190.76	2,116.03	1,597.00	79.85	3,792.88	9,983.64
Gary L. Jones	1,966.88	805.60	608.00	30.40	1,444.00	3,410.88
Joseph R. Jones	220.22	68.90	52.00	2.60	123.50	343.72
Michael J. Jones	30,278.07	30,249.75	22,830.00	1,141.50	54,221.25	84,499.32
Randolph Vernon Jones	21,684.51	8,523.73	6,433.00	321.65	15,278.38	36,962.89
Robert Anthony Jones	674.90	445.20	336.00	16.80	798.00	1,472.90
Curtis William Jordan	8,655.58	2,422.10	1,828.00	91.40	4,341.50	12,997.08
James T. Keebler	745.36	233.20	176.00	8.80	418.00	1,163.36
Brian David Kennedy	4,871.52	1,990.15	1,502.00	75.10	3,567.25	8,438.77
Kenneth D. Kilburn	6,538.49	2,966.68	2,239.00	111.95	5,317.63	11,856.12
Johnny A. Kinbrough, Jr.	135.52	42.40	32.00	1.60	76.00	211.52
Michael Len Kirksey	7,089.50	4,538.13	3,425.00	171.25	8,134.38	15,223.88
Albert E. Kittrell	0.00	5,232.43	3,949.00	197.45	9,378.88	9,378.88
David Leon Kling	82,623.64	38,837.08	29,311.00	1,465.55	69,613.63	152,237.27
George Norman Kling, Jr.	81,185.01	44,025.78	33,227.00	1,661.35	78,914.13	160,099.14
Jeremi R. Knapp	3,271.20	1,156.73	873.00	43.65	2,073.38	5,344.58
Joshua Lewayne Knapp	4,206.40	1,497.25	1,130.00	56.50	2,683.75	6,890.15
Marcus Allen Koester	1,242.24	498.20	376.00	18.80	893.00	2,135.24
Nick Kofonis	0.00	657.20	496.00	24.80	1,178.00	1,178.00
Gregory Glen Kohn	835.20	318.00	240.00	12.00	570.00	1,405.20
Charles C. Kyle	9,462.83	2,620.85	1,978.00	98.90	4,697.75	14,160.58
Edward M. Kyle	57,905.96	19,481.48	14,703.00	735.15	34,919.63	92,825.59
Charles R. LaCombe II	39.40	53.00	40.00	2.00	95.00	134.40
Matthew Thomas Ladner	181.16	74.20	56.00	2.80	133.00	314.16
Jeremy Lane Ladnier	15,674.93	8,065.26	6,087.00	304.35	14,456.61	30,131.54
David Lahman	1,677.06	524.70	396.00	19.80	940.50	2,617.56
Brian Steven Lane	135.52	42.40	32.00	1.60	76.00	211.52
Bradley L. Latham	151.52	42.40	32.00	1.60	76.00	227.52
Harold Lawshe	0.00	1,669.50	1,260.00	63.00	2,992.50	2,992.50
Harold Lee Lawshe	0.00	177.55	134.00	6.70	318.25	318.25
Joseph R. Lawshe	4,693.50	2,782.50	2,100.00	105.00	4,987.50	9,681.00
Samuel Alex Lawson	1,373.58	13,391.78	10,107.00	505.35	24,004.13	25,377.71
Paul Samuel Leckie	135.93	182.86	138.00	6.90	327.76	463.69
Daniel Charles Ledbetter	948.64	296.80	224.00	11.20	532.00	1,480.64
Richard A. Lee	631.22	219.95	166.00	8.30	394.25	1,025.47
Justin Haas Lins	6,362.47	2,440.65	1,842.00	92.10	4,374.75	10,737.22
Homer Jason Lloyd	306.24	116.60	88.00	4.40	209.00	515.24
Gene Ray Lloyd, Jr.	3,936.43	1,184.55	894.00	44.70	2,123.25	6,059.68
Daryl Wayne Loper	4,569.24	1,688.05	1,274.00	63.70	3,025.75	7,594.99
John Carl Lott	8,981.88	3,124.35	2,358.00	117.90	5,600.25	14,582.13
Michael R. Lott	11,772.12	3,523.18	2,659.00	132.95	6,315.13	18,087.25
Cleveland Lee Mack	5,907.00	2,282.98	1,723.00	86.15	4,092.13	9,999.13
Jeremy Dewayne Malone	1,175.61	696.95	526.00	26.30	1,249.25	2,424.86

Employee	Total Backpay	H & W Fund	Pension Fund	Education Fund	Total Fund Contributions	Total Backpay & Fund Contributions
Kerry M. Manning	449.03	219.95	166.00	8.30	394.25	843.28
William Barkley Markham	1,287.36	763.20	576.00	28.80	1,368.00	2,655.36
Trae Kelley Marlow	0.00	270.30	204.00	10.20	484.50	484.50
Stephen Ryan Massey	1,608.08	897.03	677.00	33.85	1,607.88	3,215.96
Donald W. Matthews, Jr.	1,259.26	418.70	316.00	15.80	750.50	2,009.76
William Thomas Mayo	1,136.40	318.00	240.00	12.00	570.00	1,706.40
Ryan Eugene McAll	4,541.40	1,592.65	1,202.00	60.10	2,854.75	7,396.15
Michael C. McCord	303.40	98.05	74.00	3.70	175.75	479.15
Brandon Antoine McCoy	2,841.72	1,158.05	874.00	43.70	2,075.75	4,917.47
Broderick Lexar McCoy	1,435.79	590.95	446.00	22.30	1,059.25	2,495.04
Chris McDonald	22,890.66	7,963.25	6,010.00	300.50	14,273.75	37,164.41
Mark Wayne McDonald	0.00	901.00	680.00	34.00	1,615.00	1,615.00
Chad Wayne McDuffie	1,536.63	604.20	456.00	22.80	1,083.00	2,619.63
Joshua Ray McDuffie	4,941.60	1,788.75	1,350.00	67.50	3,206.25	8,147.85
Craig James McEachrom	12,036.56	8,905.33	6,721.00	336.05	15,962.38	27,998.94
Tillman Roland McGeehee	4,603.22	1,521.10	1,148.00	57.40	2,726.50	7,329.72
Chris E. McGinnis	2,032.80	636.00	480.00	24.00	1,140.00	3,172.80
Edward McGrew	6,334.22	14,840.00	11,200.00	560.00	26,600.00	32,934.22
Teddy D. McIlwain	7,958.76	5,586.20	4,216.00	210.80	10,013.00	17,971.76
William Anthony McIlwain	6,049.96	2,300.20	1,736.00	86.80	4,123.00	10,172.96
George Douglas McKensie	4,398.72	1,616.50	1,220.00	61.00	2,897.50	7,296.22
James L. McKensie	2,816.70	874.50	660.00	33.00	1,567.50	4,384.20
Gary A. McLain	2,570.65	776.45	586.00	29.30	1,391.75	3,962.40
Joshua Blake McLaughlin	9,326.40	3,423.80	2,584.00	129.20	6,137.00	15,463.40
William Chase McNair	9,824.22	3,635.80	2,744.00	137.20	6,517.00	16,341.22
Myles Joseph McNichol	8,452.31	2,998.48	2,263.00	113.15	5,374.63	13,826.94
Christopher M. Miller	75.76	21.20	16.00	0.80	38.00	113.76
Steven Eugene Millsaps	411.51	1,649.63	1,245.00	62.25	2,956.88	3,368.39
Vincent M. Minar	2,554.30	808.25	610.00	30.50	1,448.75	4,003.05
Abraham Mitchell	23,604.39	8,766.20	6,616.00	330.80	15,713.00	39,317.39
Jerry Wayne Mohren, Jr.	44,886.10	66,958.88	50,535.00	2,526.75	120,020.63	164,906.73
Jack R. Moiren	0.00	2,140.54	1,615.50	80.78	3,836.82	3,836.82
Jerome David Moiren	14,623.61	7,952.66	6,002.00	300.10	14,254.76	28,878.37
Donald Jason Morgan	69.70	26.50	20.00	1.00	47.50	117.20
Bobby L. Mosley	5,050.11	1,491.95	1,126.00	56.30	2,674.25	7,724.36
Christopher Aaron Mudd	32,160.22	15,986.13	12,065.00	603.25	28,654.38	60,814.60
Fred Gene Murphy	167.16	74.20	56.00	2.80	133.00	300.16
Timothy Earl Murray	849.12	323.30	244.00	12.20	579.50	1,428.62
Michael William Myles	5,611.50	2,007.38	1,515.00	75.75	3,598.13	9,209.63
Deundrak Leshun Napier	11,136.00	4,070.40	3,072.00	153.60	7,296.00	18,432.00
Joshua Quentin Napier	1,306.09	559.15	422.00	21.10	1,002.25	2,308.34
Tracy Napier	7,471.62	6,071.15	4,582.00	229.10	10,882.25	18,353.87
Adam Lane Neighbors	897.00	265.00	200.00	10.00	475.00	1,372.00
Dustin Baker Nelson	14,666.46	8,807.28	6,647.00	332.35	15,786.63	30,453.09
Jessie Frank Nelson	16,615.69	9,222.00	6,960.00	348.00	16,530.00	33,145.69
Samuel Wade Nelson	20,325.20	36,933.05	27,874.00	1,393.70	66,200.75	86,525.95
Ronald Allen Newman II	101.20	49.03	37.00	1.85	87.88	189.08
Grant C. Nichols	66,743.77	63,153.48	47,663.00	2,383.15	113,199.63	179,943.40
Robert Nichols	243.54	217.30	164.00	8.20	389.50	633.04
Jeremy Richard Nolan	1,360.68	500.85	378.00	18.90	897.75	2,258.43
Michael Ryan Nolen	1,014.69	491.58	371.00	18.55	881.13	1,895.82
Jatten R. Norris	6,525.00	2,435.35	1,838.00	91.90	4,365.25	10,890.25
Jonathan Reeves Odom	299.28	113.95	86.00	4.30	204.25	503.53
Salomon Vasquez Olguin	15,268.28	5,990.33	4,521.00	226.05	10,737.38	26,005.66
Daniel Lee Oliveira	857.31	325.95	246.00	12.30	584.25	1,441.56
Joseph Edward Owens	1,112.73	311.38	235.00	11.75	558.13	1,670.86
Joseph Hayden Owens	537.01	206.70	156.00	7.80	370.50	907.51
Anthony Jabari Owes	922.20	328.60	248.00	12.40	589.00	1,511.20
Jerome C. Page	868.18	271.63	205.00	10.25	486.88	1,355.06
Alan Fank Parden	103.52	42.40	32.00	1.60	76.00	179.52
Carlton W. Parker	0.00	1,007.00	760.00	38.00	1,805.00	1,805.00
Matthew Brent Parnell	1,910.52	702.25	530.00	26.50	1,258.75	3,169.27

Employee	Total Backpay	H & W Fund	Pension Fund	Education Fund	Total Fund Contributions	Total Backpay & Fund Contributions
Dwight D. Pateson	1,956.04	837.40	632.00	31.60	1,501.00	3,457.04
Edward Harold Pegg III	2,727.45	1,018.93	769.00	38.45	1,826.38	4,553.83
Marvin Peterson	9,456.90	3,337.68	2,519.00	125.95	5,982.63	15,439.53
James Glenn Philen	23,841.08	31,146.78	23,507.00	1,175.35	55,829.13	79,670.21
Steven Blake Phillips	30,467.41	13,325.53	10,057.00	502.85	23,885.38	54,352.79
Thomas Chad Phillips	16,131.03	6,181.13	4,665.00	233.25	11,079.38	27,210.41
Zachary E. Phillips	13,352.76	4,788.55	3,614.00	180.70	8,583.25	21,936.01
Anthony Dewayne Pierce	0.00	7,443.85	5,618.00	280.90	13,342.75	13,342.75
Jason A. Pierce	6,304.68	1,998.10	1,508.00	75.40	3,581.50	9,886.18
Justin Carl Pierce	9,802.25	4,481.16	3,382.00	169.10	8,032.26	17,834.51
Samuel L. Pierce	407.12	144.43	109.00	5.45	258.88	666.00
Daryl Lynn Poole	11,314.53	13,866.13	10,465.00	523.25	24,854.38	36,168.91
Dustin Ray Powell	769.93	315.35	238.00	11.90	565.25	1,335.18
Ronald Dale Price, Jr.	601.71	246.45	186.00	9.30	441.75	1,043.46
Michael Price-Williams	3,418.67	956.65	722.00	36.10	1,714.75	5,133.42
Timothy W. Primm	2,710.40	848.00	640.00	32.00	1,520.00	4,230.40
Latonio K. Pritchett	993.51	320.65	242.00	12.10	574.75	1,568.26
Kevin Ronald Pugh	7,695.00	2,407.53	1,817.00	90.85	4,315.38	12,010.38
Joseph Patrick Ray	0.00	35.78	27.00	1.35	64.13	64.13
Donald Gordon Reed	20,048.34	7,047.68	5,319.00	265.95	12,632.63	32,680.97
Douglas Alan Reed	10,319.36	17,988.20	13,576.00	678.80	32,243.00	42,562.36
Jonathan D. Reed	522.06	348.48	263.00	13.15	624.63	1,146.69
Ronald V. Reed	17,561.39	34,814.38	26,275.00	1,313.75	62,403.13	79,964.52
David G. Reed III	51,273.00	23,131.85	17,458.00	872.90	41,462.75	92,735.75
David Gordon Reed, Jr.	5,621.94	23,166.30	17,484.00	874.20	41,524.50	47,146.44
Michael Shane Rester	1,051.17	294.15	222.00	11.10	527.25	1,578.42
Jacob K. Reynolds	2,446.47	916.90	692.00	34.60	1,643.50	4,089.97
Dale Rayburn Richard II	634.06	251.75	190.00	9.50	451.25	1,085.31
James Steven Richardson	2,898.87	1,142.15	862.00	43.10	2,047.25	4,946.12
Joshua Keith Richardson	4,639.39	3,221.08	2,431.00	121.55	5,773.63	10,413.02
John C. Rimmer	6,625.00	2,615.55	1,974.00	98.70	4,688.25	11,313.25
Keith Allen Robinson	592.90	185.50	140.00	7.00	332.50	925.40
Timothy M. Robinson	2,533.44	906.30	684.00	34.20	1,624.50	4,157.94
Michael W. Rodgers	59.40	53.00	40.00	2.00	95.00	154.40
Joshua Ryan Rogers	2,115.84	777.78	587.00	29.35	1,394.13	3,509.97
Harvey Rogers, Jr.	2,644.71	1,053.38	795.00	39.75	1,888.13	4,532.84
Richard Howard Roper	2,561.28	975.20	736.00	36.80	1,748.00	4,309.28
Jerome M. Roscoe	0.00	1,682.75	1,270.00	63.50	3,016.25	3,016.25
Richard Roscoe	708.76	796.33	601.00	30.05	1,427.38	2,136.14
Eric Bradley Rush	0.00	14,127.16	10,662.00	771.62	25,560.78	25,560.78
Kevin Wayne Rush	5,796.60	14,604.82	11,022.50	806.77	26,434.09	32,230.69
Justin H. Safarin	2,825.76	1,036.15	782.00	39.10	1,857.25	4,683.01
Julio Sanchez	7,458.29	2,900.43	2,189.00	109.45	5,198.88	12,657.17
Joshua L. Sanders	37,321.11	22,328.90	16,852.00	842.60	40,023.50	77,344.61
Steven Gerard Schwent	1,697.40	1,081.20	816.00	40.80	1,938.00	3,635.40
Charles Jason Scott	7,496.15	2,659.28	2,007.00	100.35	4,766.63	12,262.78
Johah Lasagne Scott	5,261.61	3,009.08	2,271.00	113.55	5,393.63	10,655.24
Jamie Ryan Seale	57.34	312.70	236.00	11.80	560.50	617.84
James A. Serritelli, Jr.	254.10	79.50	60.00	3.00	142.50	396.60
Grady D. Sexton	1,567.36	592.28	447.00	22.35	1,061.63	2,628.99
Marc Lee Shamp	1,685.44	633.35	478.00	23.90	1,135.25	2,820.69
John Benjamin Shelby	5,048.87	2,811.65	2,122.00	106.10	5,039.75	10,088.62
Zachary Shontreal Shell	1,883.54	760.55	574.00	28.70	1,363.25	3,246.79
James Monroe Shinkle	12,382.61	4,666.65	3,522.00	176.10	8,364.75	20,747.36
David Mitchell Shirah	0.00	17,437.00	13,160.00	977.20	31,574.20	31,574.20
Billy Joe Simmons	5,590.20	1,749.00	1,320.00	66.00	3,135.00	8,725.20
Josh T. Simmons	7,048.83	2,418.13	1,825.00	91.25	4,334.38	11,383.21
Fred Douglas Sims, Jr.	42,314.12	14,922.15	11,262.00	563.10	26,747.25	69,061.37
David W. Smith	3,603.57	1,347.53	1,017.00	50.85	2,415.38	6,018.95
Jamie Hunter Smith	608.18	225.25	170.00	8.50	403.75	1,011.93
Lawrence S. Smith	7,630.72	3,115.08	2,351.00	117.55	5,583.63	13,214.35
Sedrick L. Smith	3,189.69	1,131.55	854.00	42.70	2,028.25	5,217.94

Employee	Total Backpay	H & W Fund	Pension Fund	Education Fund	Total Fund Contributions	Total Backpay & Fund Contributions
Thomas Ray Smith	4,450.90	1,245.50	940.00	47.00	2,232.50	6,683.40
Vaudy Scott Smith	51.76	21.20	16.00	0.80	38.00	89.76
Clayton P. Smith, Jr.	19,102.39	17,089.85	12,898.00	987.14	30,974.99	50,077.38
Carlos Jose Socorro	23,866.18	10,394.63	7,845.00	525.93	18,765.56	42,631.74
Joshua T. Southerland	18,517.90	7,243.78	5,467.00	273.35	12,984.13	31,502.03
Samuel E. Southerland, Jr.	28,630.89	38,740.36	29,238.00	2,445.74	70,424.10	99,054.99
Brandon Grant Starling	108.78	174.90	132.00	6.60	313.50	422.28
Wm Randall Starling	0.00	174.90	132.00	6.60	313.50	313.50
David Scott Stearman, Jr.	2,785.01	1,094.45	826.00	41.30	1,961.75	4,746.76
Ronnie Sterling	0.00	1,538.33	1,161.00	58.05	2,757.38	2,757.38
Jason H. Sterns	465.85	145.75	110.00	5.50	261.25	727.10
Jesse Scott Stewart	2,924.63	1,028.20	776.00	38.80	1,843.00	4,767.63
Marlon Elliot Stiers	2,549.47	776.45	586.00	29.30	1,391.75	3,941.22
Terrell Harlan Still	1,132.25	413.40	312.00	15.60	741.00	1,873.25
Bennett Raye Stoker	8,128.42	3,937.90	2,972.00	148.60	7,058.50	15,186.92
Daniel Ryan Stokley	3,841.92	1,356.80	1,024.00	51.20	2,432.00	6,273.92
Timothy James Stormer	0.00	13,296.38	10,035.00	788.95	24,120.33	24,120.33
Jason P. Strickland	2,121.74	634.68	479.00	23.95	1,137.63	3,259.37
Charles J. Stringer	25,156.00	9,975.93	7,529.00	376.45	17,881.38	43,037.38
Stringfellow, Chad Allen	2,822.85	2,125.30	1,604.00	80.20	3,809.50	6,632.35
Michael A. Stringfellow	932.88	275.60	208.00	10.40	494.00	1,426.88
Stephen T. Stringfellow	15,830.98	5,837.95	4,406.00	220.30	10,464.25	26,295.23
James Ronald Stroud	0.00	11,632.18	8,779.00	438.95	20,850.13	20,850.13
Cbase Allen Sweatt	1,543.28	1,103.73	833.00	41.65	1,978.38	3,521.66
Jonathan W. Sullivan	424.83	765.85	578.00	28.90	1,372.75	1,797.58
Johnny D. Tapper, Jr.	45,785.66	80,801.15	60,982.00	5,314.06	147,097.21	192,882.87
Christopher M. Taylor	28,440.66	13,954.90	10,532.00	757.72	25,244.62	53,685.28
Patrick Lee Taylor	401.14	164.30	124.00	6.20	294.50	695.64
Steven Mark Taylor, Jr.	1,861.00	618.78	467.00	23.35	1,109.13	2,970.13
Thomas Lloyd Temple	5,722.02	2,029.90	1,532.00	76.60	3,638.50	9,360.52
Philip Alan Thames	15,009.68	102,517.90	77,372.00	3,868.60	183,758.50	198,768.18
John H. Thomas	0.00	2,567.86	1,938.00	96.90	4,602.76	4,602.76
John Houston Thomas	0.00	1,058.68	799.00	39.45	1,897.13	1,897.13
Phillip E. Thornberg	14,240.16	5,191.35	3,918.00	195.90	9,305.25	23,545.41
George Kevin Thornton	3,224.57	1,515.80	1,144.00	57.20	2,717.00	5,941.57
Robert L. Tolito, Jr.	0.00	596.25	450.00	22.50	1,068.75	1,068.75
Mark Ellis Tuberville, Jr.	3,245.10	1,221.65	922.00	46.10	2,189.75	5,434.85
Charles Brady Tucker	13,749.48	5,016.45	3,786.00	189.30	8,991.75	22,741.23
Chris Kelly Tucker	18,636.75	7,618.75	5,750.00	287.50	13,656.25	32,293.00
James Tucker	1,628.64	583.00	440.00	22.00	1,045.00	2,673.64
Adrian W. Turner	2,906.40	7,671.75	5,790.00	289.50	13,751.25	16,657.65
Levon Ray Turner	1,558.82	1,646.98	1,243.00	62.15	2,952.13	4,510.95
Michael David Turner	38,672.76	19,564.95	14,766.00	738.30	35,069.25	73,742.01
Russell Patrick Turner	2,625.35	896.36	676.50	33.83	1,606.69	4,232.04
Chad Guy Tyler	965.79	1,521.10	1,148.00	57.40	2,726.50	3,692.29
Aric Lee Vertrees	36,358.80	32,846.75	24,790.00	2,024.70	59,661.45	96,020.25
John T. Wade	283.75	88.78	67.00	3.35	159.13	442.88
Charles Kennedy Walters	5,129.01	92,800.35	70,038.00	3,501.90	166,340.25	171,469.26
Roy C. Ward	890.88	336.55	254.00	12.70	603.25	1,494.13
Jack T. Ward, Jr.	27,890.47	14,000.61	10,566.50	801.21	25,368.32	53,258.79
Michael Ware	508.20	159.00	120.00	6.00	285.00	793.20
Roderick Morte Wash	0.00	1,540.98	1,163.00	58.15	2,762.13	2,762.13
Anthony Blake Wasylow	4,635.76	1,771.53	1,337.00	66.85	3,175.38	7,811.14
Jesse Steven Watkins	26,940.54	10,531.10	7,948.00	397.40	18,876.50	45,817.04
Shane Wesley Watson	8,360.90	3,682.18	2,779.00	138.95	6,600.13	14,961.03
Vincent Earl Watts	2,446.55	795.00	600.00	30.00	1,425.00	3,871.55
Robert J. Weatherly III	3,571.10	1,131.55	854.00	42.70	2,028.25	5,599.35
Phillip A. Weatherspoon	0.00	6,920.48	5,223.00	110.65	12,254.13	12,254.13
Anthony Elliott Weaver	7,784.76	2,932.23	2,213.00	199.17	5,344.40	13,129.16
Douglas Allen Weaver	571.88	324.63	245.00	12.25	581.88	1,153.76
James Weaver	5,387.58	1,942.45	1,466.00	73.30	3,481.75	8,869.33
Kimmie Rogers Weaver	1,973.95	700.26	528.50	26.43	1,255.19	3,229.14

Employee	Total Backpay	H & W Fund	Pension Fund	Education Fund	Total Fund Contributions	Total Backpay & Fund Contributions
Tony Elliott Weaver	1,155.36	439.90	332.00	16.60	788.50	1,943.86
Louis G. Weaver, Jr.	4,784.54	1,697.33	1,281.00	64.05	3,042.38	7,826.92
Brandon Michael Wells	889.63	352.45	266.00	13.30	631.75	1,521.38
Thomas Jerald Wells	0.00	43,677.30	32,964.00	2,780.92	79,422.22	79,422.22
Earl E. Wheeler	34,846.43	23,751.95	17,926.00	1,435.10	43,113.05	77,959.48
Milton James Wheeler	2,644.75	1,136.85	858.00	42.90	2,037.75	4,682.50
Michael James White, Jr.	2,358.03	659.85	498.00	24.90	1,182.75	3,540.78
Christopher K. Wiggins	926.28	328.60	248.00	12.40	589.00	1,515.28
Randall Eric Wilbur	34,059.61	12,180.73	9,193.00	459.65	21,833.38	55,892.99
David A. Wilkerson, Jr.	478.78	196.10	148.00	7.40	351.50	830.28
Michael B. Willard	420.55	159.00	120.00	6.00	285.00	705.55
Adam Matthew Williams	1,357.20	516.75	390.00	19.50	926.25	2,283.45
Eric Shane Williams	14,167.98	6,366.63	4,805.00	240.25	11,411.88	25,579.86
Johnnie Russell Williams	167.04	63.60	48.00	2.40	114.00	281.04
Joshua Colby Williams	7,762.38	3,038.23	2,293.00	114.65	5,445.88	13,208.26
Michael Shane Williams	8,740.16	4,049.20	3,056.00	152.80	7,258.00	15,998.16
Patrick Henry Williams	18,437.28	17,993.50	13,580.00	1,036.84	32,610.34	51,047.62
Stephen Shea Williams	376.74	111.30	84.00	4.20	199.50	576.24
Timothy M. Williams	446.43	182.85	138.00	6.90	327.75	774.18
Treavor Brown Williams	0.00	821.50	620.00	31.00	1,472.50	1,472.50
Brandon Taylor Wilson	3,740.11	1,737.08	1,311.00	65.55	3,113.63	6,853.74
Charles Wade Wilson	57,538.16	55,822.91	42,130.50	2,106.53	100,059.94	157,598.10
John Asher Wilson	3,250.32	1,181.90	892.00	44.60	2,118.50	5,368.82
John Franklin Wilson	2,256.45	3,630.50	2,740.00	137.00	6,507.50	8,763.95
Dell Lee Wright	719.72	201.40	152.00	7.60	361.00	1,080.72
James Terrell Yates	8,590.62	2,586.40	1,952.00	97.60	4,636.00	13,226.62
Brian Franklin Yell	3,455.64	1,645.65	1,242.00	62.10	2,949.75	6,405.39
Brian Dewyan Young	597.60	212.00	160.00	8.00	380.00	977.60
Donnie Ray Zundel, Jr.	1,082.56	360.40	272.00	13.60	646.00	1,728.56
<b>TOTAL BALANCE</b>	<b>3,846,526.81</b>	<b>2,918,291.18</b>	<b>2,202,284.10</b>	<b>118,278.26</b>	<b>5,238,854.54</b>	<b>9,085,381.35</b>

- Grand total backpay: 3,846,526.81
- Grand total funds contributions: 5,238,854.54
- Grand total backpay and funds contributions: 9,085,381.35

#### CONCLUSIONS

Respondent will discharge its make whole obligations, for the period alleged in the compliance specification, April 22, 1991, through April 22, 2008, by payment of the amounts de-

scribed above, together with interest as prescribed in *New Horizons*, 283 NLRB 1173 (1987).

This Supplemental Decision does not address Respondent's further obligations to make employees whole for backpay and benefits accruing after April 22, 2008.

[Recommended Order omitted from publication.]