

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

In the Matter of

FOUR WINDS SERVICES, INC.

and

Case 9-CA-062287

GENERAL TRUCK DRIVERS,
WAREHOUSEMEN HELPERS, SALES
AND SERVICE AND CASINO EMPLOYEES,
TEAMSTERS LOCAL UNION NO. 957

MOTION FOR DEFAULT JUDGEMENT

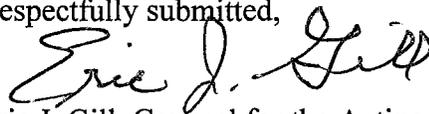
NOW COMES THE ACTING GENERAL COUNSEL by the undersigned Counsel for the Acting General Counsel, and moves that:

1. Pursuant to Sections 102.20, 102.21 and 102.54 of the Board's Rules and Regulations, Series 8, as amended, all allegations of the consolidated complaint and compliance specification in this matter be deemed to be admitted to be true and be so found by the Board for failure of Respondent to file an answer to the consolidated complaint and compliance specification. (A copy of the consolidated complaint and compliance specification with proof of service, is attached hereto as Exhibit A).

2. A decision issue, including finding of facts and conclusions of law, in accordance with paragraph 1 above, and a remedial order issue for the reasons set forth in the supporting memorandum filed herewith.

Dated at Cincinnati, Ohio this 22nd day of November 2011.

Respectfully submitted,



Eric J. Gill, Counsel for the Acting General Counsel
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

Attachment

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
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In the Matter of

FOUR WINDS SERVICES, INC.

and

Case 9-CA-062287

GENERAL TRUCK DRIVERS, WAREHOUSEMEN
HELPERS, SALES AND SERVICE AND CASINO
EMPLOYEES, TEAMSTERS LOCAL UNION NO. 957

ORDER CONSOLIDATING COMPLAINT
AND
COMPLIANCE SPECIFICATION
AND
NOTICE OF HEARING

General Truck Drivers, Warehousemen, Helpers, Sales and Service and Casino Employees, Teamsters Local Union No. 957, herein called the Union, has charged that Four Winds Services, Inc., herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151, et seq., herein called the Act. Based thereon, and in order to effectuate the purposes and policies of the Act and to avoid unnecessary costs or delay, the Acting General Counsel, by the undersigned, pursuant to Section 102.33 and 102.549(b) of the Rules and Regulations of the National Labor Relations Board, herein called the Board, Orders that this order consolidating complaint and the compliance specification be consolidated.

This complaint and compliance specification having been consolidated, the Acting General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Boards Rules and Regulations, issues this Order Consolidating Complaint and Compliance Specification and Notice of Hearing and alleges as follows:

1. The charge was filed by the Union on August 8, 2011, and a copy was served by regular mail on Respondent on August 9, 2011.

2. (a) At all material times, Respondent, a corporation, with an office and place of business in Fairborn, Ohio, has been engaged as a contractor providing fuel distribution and aircraft maintenance services at the Wright Patterson Air Force Base under contract with the Federal government.

(b) During the past 12 months, Respondent, in conducting its operations described above in paragraph 2(a), purchased and received at its Fairborn, Ohio facility goods valued in excess of \$50,000 directly from points outside the State of Ohio.

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

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

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

Dennis Carson	- Vice-President
Roberta Carver-Carson	- President
John Liegl	- Human Resource Manager

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

All Fuels Specialist personnel employed by [Respondent]
at Wright Patterson Air Force Base, Fairborn, Ohio
excluding all office clerical employees, all professional

employees, guards, lab technicians and supervisors as defined in the Act.

6. (a) Since about January 2006, and at all material times, the Union has been the designated exclusive collective-bargaining representative of the Unit, and since then, the Union has been recognized as the representative by Respondent. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from October 1, 2009 to September 30, 2012, herein called the "Agreement."

(b) At all times since at least January 2006, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

7. On or about the dates set forth below, Respondent failed to continue in effect all the terms and conditions of employment of the Unit as set forth in the Agreement described above in paragraph 6(a) by the following conduct:

(a) Since about May 1, 2011, failing to remit to the Union the union dues deducted from employees' paychecks as provided in Article VI Subsection 6.2 of the Agreement described above in paragraph 6(a).

(b) Since about May 1, 2011, failing to make the weekly contributions to the Union's Ohio Conference of Teamsters & Industry Health and Welfare Fund as provided in Article XX of the Agreement described above in paragraph 6.

(c) About July 15, 2011, failing to pay employees their accrued vacation pay as provided in Article XIV Subsection 14.1 of the Agreement described above in paragraph 6(a).

8. Respondent engaged in the conduct described above in paragraph 7 without the Union's consent.

9. The terms and conditions of employment, described above in paragraph 7 are mandatory subjects for the purpose of collective bargaining.

10. By the conduct described above in paragraphs 7 and 8, Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

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

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraphs 7 and 8, the Acting General Counsel seeks an Order requiring Respondent to do the following:

(a) make whole the Union for all dues deducted from employees' paychecks and not remitted to the Union as provided in Article VI Subsection 6.2 of the Agreement;

(b) make whole the Ohio Conference of Teamsters & Industry Health and Welfare Fund as provided in Article XX of the Agreement; and

(c) make whole its former employees for failing to pay to their accrued vacation pay as provided in Article XIV Subsection 14.1 of the Agreement.

The Acting General Counsel further seeks all relief necessary to remedy the alleged unfair labor practices.

COMPLIANCE SPECIFICATION

WHEREFORE, in order to liquidate the amount owed by Respondent and to avoid unnecessary cost or delays, the undersigned issues this compliance specification and alleges as follows:

12. As a result of the conduct described above in paragraph 7(a) of the complaint, the Union is entitled to unremitted dues in the manner and amount computed as follows:

13. The period for which Respondent failed to remit dues to the Union consists of 2.5 months from May 1, 2011 through July 15, 2011. The amount of monthly union dues for each of the 19 unit employees from whom Respondent deducted dues was \$69.00. The total amount of dues Respondent owes to the Union, as set forth more fully in Appendix A, is \$3,277.50

14. As a result of the conduct described above in paragraph 7(b) of the complaint, the Union is entitled to Health and Welfare contributions in the manner and amount computed as follows:

15. The period for which Respondent failed to contribute to the Union's Ohio Conference of Teamsters & Industry Health and Welfare Fund consists of 11 weeks beginning May 1, 2011 and ending July 15, 2011, the date Respondent discharged all of its employees. As set forth more fully in Appendix B, the total amount of contributions owed based on a rate of \$280 per week for each of the 20 unit employees, is \$61,600.

16. As a result of the conduct described above in paragraph 7(c) of the complaint, Respondent's former unit employees are entitled to their accrued vacation pay as of July 15, 2011, the date they were discharged, in the total amount of \$53,221.18, as detailed in Appendix C.

17. Summarizing the facts and calculations specified above and in Appendices A, B, and C, the obligation of Respondent under the Order Consolidating Complaint and Compliance Specification and Notice of Hearing, to make the Union and former employees whole for losses suffered as a result of Respondent's unlawful conduct will be discharged by payment to the Union, the Ohio Conference of Teamsters & Industry Health and Welfare Fund and to the former employees of the amounts set forth below, with daily compounded interest accruing on the entire amount to the date of payment, minus tax withholdings required by federal and state law.

Union Dues \$3,277.50

Fund Contributions \$61,600.00

Vacation Pay \$53,221.18

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20, 102.21, and 102.56 of the Board's Rules and Regulations, it must file an answer to the order consolidating complaint and compliance specification. The answer must be received by this office on or before **November 11, 2011**, or postmarked on or before **November 10, 2011**. Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically through the Agency's website. *To file electronically, go to www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.* The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that

such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

As to all matters set forth in the compliance specification paragraphs 12 to 17, that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial is not sufficient. See Section 102.56(b) of the Board's Rules and Regulations, a copy of which is attached. Rather, the answer must state the basis for any disagreement with any allegations that are within the Respondent's knowledge, and set forth in detail Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the order consolidating complaint and compliance specification are true. If the answer fails to deny allegations of the compliance specification paragraphs 12 to 17 in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the compliance specification are true and preclude Respondent from introducing any evidence controverting those allegations.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **December 21, 2011, 9 a.m.**, at **3003 John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated complaint and compliance specification. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Cincinnati, Ohio this 21st day of October 2011.



Laura E. Atkinson, Acting Regional Director
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

Attachments

Appendix A

Appendix A		Union Dues			
Last Name	First Name and Middle Initial	Union Dues Per Month	Quarter 2-2011 (2 Months)	Quarter 3-2011 (1/2 Month)	Total
Allen	Drew T	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Belem	Ronald E	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Bates	Jason A	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Farra	David L	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Fetty	Terry L	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Fothergill	Thomas E	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Gilbert	Steven	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Gulasa, Jr.	Frank J	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Hayes	Dennis A	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Huffard	Keith D	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Hutchinson	Danny R	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Langdon	Alfred	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Malloy	Timothy	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Maxwell	Jonathan W	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Merculo, Jr.	Phillips V	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Pierce	Michael L	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Whitesell	Glenn A	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Walton	Gilbert J	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Yeary	Jonathan L	\$ 69.00	\$ 138.00	\$ 34.50	\$ 172.50
Total:			\$ 2,622.00	\$ 655.50	\$ 3,277.50

Appendix B

Appendix B		H&W			
Last Name	First Name and Middle Initial	Health & Welfare Contributions Per Week	Quarter 2-2011 (9 weeks)	Quarter 3-2011 (2 weeks)	Total
Allen	Drew T	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Belem	Ronald E	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Bates	Jason A	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Farra	David L	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Fetty	Terry L	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Fothergill	Thomas E	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Gilbert	Steven	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Gulasa, Jr.	Frank J	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Hayes	Dennis A	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Huffard	Keith D	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Hutchinson	Danny R	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Langdon	Alfred	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Lieuranc	Douglas C	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Malloy	Timothy	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Maxwell	Jonathan W	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Merculo, Jr.	Phillips V	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Pierce	Michael L	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Whitesell	Glenn A	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Walton	Gilbert J	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
Yeary	Jonathan L	\$ 280.00	\$ 2,520.00	\$ 560.00	\$ 3,080.00
		Total:	\$ 50,400.00	\$ 11,200.00	\$ 61,600.00

Appendix C

Appendix C	Vacation			
Last Name	First Name and Middle Initial	Vacation Hours Accrued as of July 15, 2011	Vacation Hourly Rate	Total Vacation Pay
Allen	Drew T	\$ 78.30	\$ 27.79	\$ 2,175.96
Bates	Jason A	\$ 4.81	\$ 27.79	\$ 133.67
Belem	Ronald E	\$ -	\$ 27.79	\$ -
Farra	David L	\$ 2.32	\$ 27.79	\$ 64.47
Fetty	Terry L	\$ 187.20	\$ 27.79	\$ 5,202.29
Fothergill	Thomas E	\$ 122.35	\$ 27.79	\$ 3,400.11
Gilbert	Steven	\$ 176.43	\$ 27.79	\$ 4,902.99
Gulasa, Jr.	Frank J	\$ 115.16	\$ 27.79	\$ 3,200.30
Hayes	Dennis A	\$ 70.30	\$ 27.79	\$ 1,953.64
Huffard	Keith D	\$ 95.18	\$ 27.79	\$ 2,645.05
Hutchinson	Danny R	\$ 115.65	\$ 27.79	\$ 3,213.91
Langdon	Alfred	\$ 48.35	\$ 27.79	\$ 1,343.65
Lieuranc	Douglas C	\$ 122.35	\$ 27.79	\$ 3,400.11
Malloy	Timothy	\$ 87.94	\$ 27.79	\$ 2,443.85
Maxwell	Jonathan W	\$ -	\$ 27.79	\$ -
Merculo, Jr.	Phillips V	\$ 201.15	\$ 27.79	\$ 5,589.96
Pierce	Michael L	\$ 123.06	\$ 27.79	\$ 3,419.84
Whitesell	Glenn A	\$ 197.35	\$ 27.79	\$ 5,484.36
Walton	Gilbert J	\$ 78.27	\$ 27.79	\$ 2,175.12
Yeary	Jonathan L	\$ 88.95	\$ 27.79	\$ 2,471.92
Total:		1,915.12		\$ 53,221.18