

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PRESIDENTIAL MAINTENANCE, LLC

and

Case 5-CA-36428

DAVID DOWDELL

PRESIDENTIAL MAINTENANCE, LLC

and

Case 5-CA-36429

DENISE BOOKER

MOTION TO TRANSFER PROCEEDINGS TO THE  
BOARD AND FOR DEFAULT JUDGMENT

Pursuant to Sections 102.24 and 102.50 of the National Labor Relations Board Rules and Regulations and Statement of Standard Procedures, Series 8, as amended, herein called the Rules, Counsel for the Acting General Counsel respectfully moves that the National Labor Relations Board, herein referred to as the Board: (1) transfer these cases and continue proceedings before the Board; (2) deem the allegations set forth in the Compliance Specification and Notice of Rescheduled Hearing issued on March 23, 2012, as admitted to be true without taking evidence supporting the allegations in the Compliance Specification; and (3) grant Default Judgment and issue a Decision and Order herein on the basis of the following:

1. On February 9, 2012, the Regional Director for Region 5 issued a Compliance Specification and Notice of Hearing, herein called the Compliance Specification, in the above-captioned matter. A copy of the Compliance Specification, affidavit of service, and

United States Postal Service tracking status showing the delivery was “unclaimed”<sup>1</sup> are attached as Exhibits 1, 2, and 3 respectively.

2. The Compliance Specification states, in pertinent part, that Respondent shall file an answer to the Compliance Specification by March 1, 2012, and absent such action, all the allegations in the Compliance Specification may be deemed to be true and may be so found by the Board. Respondent did not file an answer to the Compliance Specification by March 1, 2012.

3. By letter dated March 5, 2012, Respondent was advised by the Region 5 Compliance Officer that Respondent had not filed an answer to the Compliance Specification, and that absent the filing of an answer to the Compliance Specification by March 12, 2012, a Motion for Default Judgment would be filed. A copy of the March 5, 2012, letter to Respondent and United States Postal Service tracking status showing the delivery “unclaimed” are attached as Exhibits 4 and 5, respectively.

4. On March 23, 2012, the Regional Director for Region 5 issued a Compliance Specification and Notice of Rescheduled Hearing, herein called the Rescheduled Compliance Specification, in the above-captioned matter. A copy of the Rescheduled Compliance Specification, affidavit of service, and United States Postal Service tracking status showing the delivery status as “delivered” are attached as Exhibits 6, 7, and 8, respectively.

5. The Rescheduled Compliance Specification states, in pertinent part, that Respondent shall file an answer to the Compliance Specification by April 13, 2012, and absent

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<sup>1</sup> The tracking status shows that the Compliance Specification dated February 9, 2012, which was sent to Respondent by certified mail, was “unclaimed.” It is well-established Board law that a “respondent’s failure or refusal to accept certified mail or to provide for appropriate service cannot serve to defeat the purposes of the Act.” *National Specialties Installations, Inc.*, 350 NLRB No. 79 fn. 3 (2007); citing *I.C.E. Electric, Inc.*, 339 NLRB 247 fn. 2 (2003), and cases cited therein.

such action, all the allegations in the Compliance Specification may be deemed to be true and may be so found by the Board.

6. On April 2, 2012, the Region 5 office received a letter from Respondent requesting Region 5 not to issue a Motion for Default Judgment. Respondent's letter did not constitute an adequate answer to the Compliance Specification and Notice of Hearing. A copy of Respondent's letter of April 2, 2012, is attached as Exhibit 9.

7. By letter dated April 3, 2012, Respondent was advised by the undersigned Field Attorney in Region 5 of the requirements of an adequate answer and that Respondent's letter of April 2, 2012, did not constitute an adequate answer. A copy of the April 3, 2012, letter to Respondent and UPS proof of delivery are attached as Exhibits 10 and 11, respectively.

8. On April 12, 2012, Respondent, by telephone, notified the undersigned Field Attorney in Region 5 that Respondent would be unable to postmark his Answer on April 12, 2012, but that Respondent would be able to send his Answer by facsimile on April 13, 2012.

9. By electronic mail transmitted on April 12, 2012, Respondent was notified by the undersigned Field Attorney in Region 5 that Region 5 would accept his faxed Answer as long as the following conditions were met: (1) the Answer was received by Region 5 by close of business on April 13, 2012, (2) the original signed Answer was sent to Region 5 by regular mail, and (3) Respondent served a copy of the Answer on the involved parties. A copy of the April 12, 2012 electronicmail to Respondent is attached as Exhibit 12.

10. On or about April 12, 2012, the Region 5 office received a letter by Respondent referencing the Compliance Specification and Notice of Hearing. Respondent's letter did not constitute an adequate answer to the Compliance Specification and Notice of Hearing. A copy of Respondent's letter of April 12, 2012, is attached as Exhibit 13.

11. By letter dated April 27, 2012, Respondent was advised by the Region 5 Compliance Officer that Respondent had not filed an adequate answer to the Compliance Specification, and that absent the filing of an answer to the Compliance Specification by May 4, 2012, a Motion for Default Judgment would be filed. A copy of the April 27, 2012, letter to Respondent and UPS proof of delivery are attached as Exhibits 14 and 15, respectively.

WHEREFORE, Counsel for the Acting General Counsel respectfully requests, in accordance with Section 102.24 and 102.50 of the Board's Rules and Regulations, that the Board deem all matters alleged in the Compliance Specification to be true, and that they be so found, and that a Decision and Order be issued containing findings of fact, conclusions of law, and an appropriate remedy for the violations herein.

Dated at Washington, DC, this 16<sup>th</sup> day of May 2012.

Respectfully submitted,

/s/ Shelly C. Skinner  
Shelly C. Skinner  
Counsel for the Acting General Counsel  
National Labor Relations Board, Region 5  
Washington Resident Office  
1099 14<sup>th</sup> St., NW; Ste. 6300  
Washington, DC 20570  
Shelly.Skinner@nlrb.gov

**STATEMENT OF SERVICE**

This will certify that on this 16<sup>th</sup> day of May 2012, the following were informed by telephone that a copy of the Acting General Counsel’s Motion to Transfer Proceedings to the Board and For Default Judgment was being electronically filed on May 16, 2012, and that a copy was being sent on the same day by United Parcel Service Overnight delivery to:

Mr. Luther P. Palmer  
Presidential Maintenance, LLC  
1214 Dominion Towers Terrace  
Richmond, VA 23223

Ms. Denise Booker  
1801 Blair St.  
Richmond, VA 23220

Mr. David Dowdell  
21 W. 27<sup>th</sup> St.  
Richmond, VA 23225

/s/ Shelly C. Skinner  
Shelly C. Skinner  
Counsel for the Acting General Counsel  
National Labor Relations Board, Region 5

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5

PRESIDENTIAL MAINTENANCE, LLC

and

Case 5-CA-36428

DAVID DOWDELL

PRESIDENTIAL MAINTENANCE, LLC

and

Case 5-CA-36429

DENISE BOOKER

**COMPLIANCE SPECIFICATION AND**  
**NOTICE OF HEARING**

On August 9, 2011, the National Labor Relations Board, herein called the Board, issued its Order reported at 357 NLRB No. 42, finding that Presidential Maintenance, LLC, herein referred to as Respondent, had engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act. The Board ordered Respondent, inter alia:

- A. to offer David Dowdell and Denise Booker, herein called the discriminatees, full reinstatement to their former positions;
- B. to make David Dowdell and Denise Booker whole, with interest, for any monetary losses suffered as the result of the discrimination against them;
- C. to remove from its files any reference to the unlawful discharges of David Dowdell and Denise Booker and notify to them in writing that this has been done and that the discharge will not be used against them in any way; and
- D. to post the Notice to Employees.

The United States Court of Appeals for the Fourth Circuit, on October 21, 2011, entered its Judgment enforcing in full the Order of the Board, and ordering Respondent to take the remedial actions directed by the Board's Order.

Respondent has taken limited steps to comply with the Order by posting the Notice to Employees, by removing from its files any reference to the unlawful discharges of David Dowdell and Denise Booker, and by notifying them in writing that this has been done and that the discharge will not be used against them in any way. Respondent made valid offers of reinstatement to the discriminatees; Dowdell went back to work on January 5, 2012, Booker waived her right to reinstatement. Respondent has not made David Dowdell whole for monetary losses suffered as a result of the discrimination against him. Denise Booker's interim earnings exceeded what she would have been paid had she continued working for Respondent, and thus, Respondent does not have to make her whole.

Controversy having arisen over the amount of backpay due under the terms of the Board's Order and in order to liquidate the current amount of backpay due David Dowdell, herein the discriminatee, the undersigned Regional Director of the National Labor Relations Board for the Fifth Region, pursuant to the authority duly conferred upon him by the Board, hereby issues this Compliance Specification and alleges the following:

1. The backpay period for David Dowdell begins on August 27, 2010 and continues until January 4, 2012.
2. An appropriate measure of gross backpay for the discriminatee to January 4, 2012 is the amount he would have earned if continually employed by Respondent during the backpay period.

3. (a) The calendar quarter gross backpay the discriminatee would have earned is defined as the sum of calendar quarter regular earnings and overtime earnings and is set forth in Exhibit A.

(b) Regular earnings are computed by multiplying the number of regular hours the discriminatee would have worked in the calendar quarter by the appropriate wage rate, as set forth in paragraph 3(f).

(c) The discriminatee would not have worked any overtime hours during the backpay period.

(d) Regular hours are based on the average regular hours worked per quarter by the discriminatee for the period beginning February 1, 2010, until his discharge.

(e) The average regular hours worked per quarter by the discriminatee is 182.

(f) The appropriate hourly wage rate for the discriminatee is \$7.25.

4. Calendar quarter interim earnings are the wages the discriminatee received from interim employers during the backpay period, computed on a quarterly basis and are set forth in Exhibit A.

5. The calendar quarter net backpay is the difference between the calendar quarter gross backpay and calendar quarter net interim earnings. The calendar quarter net backpay due is set forth in Exhibit A.

6. (a) The discriminatee is entitled to reimbursement for the increase in expenses related to commuting costs to his interim employers.

(b) The quarterly amounts owed to the discriminatee for the increase in commuting costs are set forth in Exhibit A.

### **SUMMARY**

Summarizing the facts and calculations specified above and on Exhibit A, the obligation of Respondent to make whole the discriminatee under the Board's Order for the period August 27, 2010 to January 4, 2012, will be discharged by the payment to David Dowdell of \$5,075.00 in backpay and \$55.00 in expenses, plus interest to date of payment and the Employer's share of FICA contributions.

### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Section 102.56 of the Board's Rules and Regulations, it must file an answer to this Compliance Specification. The answer must be received by this office on or before March 1, 2012, or postmarked on or before February 29, 2012. 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 by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov tab**, select **E-Filing** and then 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 102.56. If an 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 compliance specification 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 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. 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 compliance specification are true.

#### **NOTICE OF HEARING**

PLEASE TAKE NOTICE that commencing at 10:00 a.m., E.D.T., on the 30<sup>th</sup> day of April 2012, and on consecutive days thereafter until concluded, a hearing will be conducted in Senate Room 1, State Capital Building, Capital Square, 1000 Bank Street, Richmond, Virginia, 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 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 Baltimore, Maryland this 9<sup>th</sup> day of February 2012.

(Seal)

/s/ Wayne R. Gold

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Wayne R. Gold, Regional Director  
National Labor Relations Board, Region 5  
103 S. Gay Street, 8th Floor  
Baltimore, MD 21202

**EXHIBIT A**

	Regular Hours	Gross Backpay	Calender Quarter Interim Earnings	Interim Expenses	Calender Quarter Net Backpay
3Q 2010	72	\$ 522.00			\$ 522.00
4Q 2010	182	\$ 1,319.50	\$348.00	\$9.00	\$ 971.50
1Q 2011	182	\$ 1,319.50	\$ 232.00	\$ 6.00	\$ 1,087.50
2Q 2011	182	\$ 1,319.50	\$ 754.00	\$ 20.00	\$ 565.50
3Q 2011	182	\$ 1,319.50	\$ 754.00	\$ 20.00	\$ 565.50
4Q 2011	182	\$ 1,319.50			\$ 1,319.50
1Q 2012	6	\$ 43.50			\$ 43.50
		<u>\$ 7,163.00</u>		<u>\$ 55.00</u>	<u>\$ 5,075.00</u>

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO  
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

*(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)*

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

(OVER)

MOTION FOR DEFAULT JUDGMENT EXHIBIT 1

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8½ by 11 inch paper.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations, with respect to the procedure to be followed before the proceeding is transferred to the Board:

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

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

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

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

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case: 05-CA-36428 & 05-CA-36429

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the General Counsel, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the General Counsel and with the Chief Administrative Law Judge in Washington, D.C.
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; *and*
- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

RESPONDENT:

MR. LUTHER R. PALMER  
PRESIDENTIAL MAINTENACE, LLC  
1214 DOMINION TOWERS TERRACE  
RICHMOND, VA 23223

CHARGING PARTY:

MS. DENISE BOOKER  
1801 BLAIR STREET  
RICHMOND, VA 23220

CHARGING PARTY:

MR. DAVID DOWDELL  
21 W 27TH STREET  
RICHMOND, VA 23225

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PRESIDENTIAL MAINTENANCE, LLC

and

DAVID DOWDELL

PRESIDENTIAL MAINTENANCE, LLC

and

DENISE BOOKER

Case 05-CA-36428 & 05-CA-36429

DATE OF MAILING 02/09/2012

AFFIDAVIT OF SERVICE OF Compliance Specification and Notice of Hearing

I, the undersigned employee of the National Labor Relations Board, certify that on the date indicated above I served the above-entitled document(s) by post-paid mail upon the following persons, addressed to them at the following addresses:

7010 0290 0000 2149 6810

MR. LUTHER R. PALMER  
PRESIDENTIAL MAINTENANCE, LLC  
1214 DOMINION TOWERS TERRACE  
RICHMOND, VA 23223

MS. DENISE BOOKER  
1801 BLAIR STREET  
RICHMOND, VA 23220

MR. DAVID DOWDELL  
21 W 27TH STREET  
RICHMOND, VA 23225

2/9/2012  
Date

William Szabo  
Print Name Title  
William Szabo  
Signature

English Customer Service USPS Mobile

Register / Sign In



Quick Tools Ship a Package Send Mail

# Track & Confirm

Sign In

GET EMAIL UPDATES PRINT DETAILS

YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
7010029000021496810		Processed through USPS Sort Facility	March 11, 2012, 7:37 am	BALTIMORE, MD 21233	Certified Mail
		Processed through USPS Sort Facility	March 10, 2012, 5:38 pm	MERRIFIELD, VA 22081	
		Unclaimed	March 02, 2012, 8:39 am	RICHMOND, VA	
		Notice Left	February 13, 2012, 11:31 am	RICHMOND, VA 23223	
		Processed through USPS Sort Facility	February 13, 2012, 4:51 am	SANDSTON, VA 23150	

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United States Government  
**NATIONAL LABOR RELATIONS BOARD**  
Region 5  
103 South Gay Street - 8th Floor  
Baltimore, MD 21202 - 4061

Telephone: (410) 962-2880  
Facsimile: (410) 962-2198

March 5, 2012

Mr. Luther R. Palmer  
Presidential Maintenance, LLC  
1214 Dominion Townes Terrace  
Richmond, VA 23223-2279

Re: Presidential Maintenance, LLC  
Cases: 5-CA-36428 and 5-CA-36429

Dear Mr. Palmer:

As you are aware from the Compliance Specification in the above-captioned case, and pursuant to Section 102.56 of the Board's Rules and Regulations, a Respondent in a case before the National Labor Relations Board shall file with the Regional Director an original and four (4) copies of an answer to the Compliance Specification within twenty-one (21) days from the service thereof. Respondent's Answer was due in this office by close of business on March 1, 2012. The Compliance Specification also notified you that Respondent shall serve a copy of its answer on each of the other parties.

To date, this office has not received an Answer from Respondent. Please be advised that if an Answer is not received in this office by close of business on Monday March 12, 2012, this office will file a Motion for Default Judgment pursuant to Section 102.56(c) of the Board's Rules and Regulations, asking the Board to find the allegations in the Compliance Specification to be admitted as true. Enclosed is a courtesy copy of the Compliance Specification and Notice of Consolidated Hearing, previously served on Respondent.

If you have any questions or wish to discuss this matter further, please do not hesitate to call me at (410) 962-2880.

Very truly yours,

  
Heather Keough  
Compliance Officer

Enclosures

Certified Mail No. 7010 0290 0000 2149 6827  
cc: See page 2

MOTION FOR DEFAULT JUDGMENT EXHIBIT 4

Cases 05-CA-36428 & 05-CA-36429

-2-

March 5, 2012

cc: Mr. David Dowdell  
21 West 27<sup>th</sup> Street  
Richmond, VA 23225

Ms. Denise Booker  
1801 Blair Street  
Richmond, VA 23220

English

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PRINT DETAILS

YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
70100290000021496827		Delivered	March 29, 2012, 1:44 pm	BALTIMORE, MD 21202	Certified Mail
		Processed through USPS Sort Facility	March 29, 2012, 6:27 am	BALTIMORE, MD 21233	
		Depart USPS Sort Facility	March 29, 2012	MERRIFIELD, VA 22081	
		Processed through USPS Sort Facility	March 28, 2012, 4:40 pm	MERRIFIELD, VA 22081	
		Unclaimed	March 23, 2012, 3:22 pm	RICHMOND, VA	
		Notice Left	March 16, 2012, 11:07 am	RICHMOND, VA 23223	
		Arrival at Unit	March 07, 2012, 8:23 am	HENRICO, VA 23231	
		Processed through USPS Sort Facility	March 07, 2012, 5:55 am	SANDSTON, VA 23150	

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MOTION FOR DEFAULT JUDGMENT EXHIBIT 5

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5**

PRESIDENTIAL MAINTENANCE, LLC

and

DAVID DOWDELL, AN INDIVIDUAL

Case 5-CA-36428

DENISE BOOKER, AN INDIVIDUAL

Case 5-CA-36429

**COMPLIANCE SPECIFICATION AND  
NOTICE OF RESCHEDULED HEARING**

On August 9, 2011, the National Labor Relations Board, herein called the Board, issued its Order reported at 357 NLRB No. 42, finding that Presidential Maintenance, LLC, herein referred to as Respondent, had engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act. The Board ordered Respondent, inter alia:

- A. to offer David Dowdell and Denise Booker, herein called the discriminatees, full reinstatement to their former positions;
- B. to make David Dowdell and Denise Booker whole, with interest, for any monetary losses suffered as the result of the discrimination against them;
- C. to remove from its files any reference to the unlawful discharges of David Dowdell and Denise Booker and notify to them in writing that this has been done and that the discharge will not be used against them in any way; and
- D. to post the Notice to Employees.

The United States Court of Appeals for the Fourth Circuit, on October 21, 2011, entered its Judgment enforcing in full the Order of the Board, and ordering Respondent to take the remedial actions directed by the Board's Order.

Respondent has taken limited steps to comply with the Order by posting the Notice to Employees, by removing from its files any reference to the unlawful discharges of David Dowdell and

Denise Booker, and by notifying them, in writing, that this has been done and that the discharge will not be used against them in any way. Respondent made valid offers of reinstatement to the discriminatees; Dowdell went back to work on January 5, 2012, Booker waived her right to reinstatement. Respondent has not made David Dowdell whole for monetary losses suffered as a result of the discrimination against him. Denise Booker's interim earnings exceeded what she would have been paid had she continued working for Respondent, and thus, Respondent does not have to make her whole.

Controversy having arisen over the amount of backpay due under the terms of the Board's Order and in order to liquidate the current amount of backpay due David Dowdell, herein the discriminatee, the undersigned Regional Director of the National Labor Relations Board for the Fifth Region, pursuant to the authority duly conferred upon him by the Board, hereby issues this Compliance Specification and alleges the following:

1. The backpay period for David Dowdell begins on August 27, 2010 and continues until January 4, 2012.
2. An appropriate measure of gross backpay for the discriminatee to January 4, 2012 is the amount he would have earned if continually employed by Respondent during the backpay period.
3. (a) The calendar quarter gross backpay the discriminatee would have earned is defined as the sum of calendar quarter regular earnings and overtime earnings and is set forth in Exhibit A.  
(b) Regular earnings are computed by multiplying the number of regular hours the discriminatee would have worked in the calendar quarter by the appropriate wage rate, as set forth in paragraph 3(f).  
(c) The discriminatee would not have worked any overtime hours during the backpay period.  
(d) Regular hours are based on the average regular hours worked per quarter by the discriminatee for the period beginning February 1, 2010, until his discharge.  
(e) The average regular hours worked per quarter by the discriminatee is 182.  
(f) The appropriate hourly wage rate for the discriminatee is \$7.25.

4. Calendar quarter interim earnings are the wages the discriminatee received from interim employers during the backpay period, computed on a quarterly basis and are set forth in Exhibit A.

5. The calendar quarter net backpay is the difference between the calendar quarter gross backpay and calendar quarter net interim earnings. The calendar quarter net backpay due is set forth in Exhibit A.

6. (a) The discriminatee is entitled to reimbursement for the increase in expenses related to commuting costs to his interim employers.

(b) The quarterly amounts owed to the discriminatee for the increase in commuting costs are set forth in Exhibit A.

#### **SUMMARY**

Summarizing the facts and calculations specified above and on Exhibit A, the obligation of Respondent to make whole the discriminatee under the Board's Order for the period August 27, 2010 to January 4, 2012, will be discharged by the payment to David Dowdell of \$5,075.00 in backpay and \$55.00 in expenses, plus interest to date of payment and the Employer's share of FICA contributions.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Section 102.56 of the Board's Rules and Regulations, it must file an answer to this Compliance Specification. The answer must be **received by this office on or before April 13, 2012, or postmarked on or before April 12, 2012.** 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 by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov tab**, select **E-Filing** and then 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 102.56. If an 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 compliance specification 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 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. 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 compliance specification are true.

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that commencing at 10:00 a.m., E.D.T., on the 6<sup>th</sup> day of June 2012, and on consecutive days thereafter until concluded, a hearing will be conducted in Senate Room 1, State Capital Building, Capital Square, 1000 Bank Street, Richmond, Virginia, 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 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 Baltimore, Maryland this 23rd day of March 2012.

(SEAL)

WAYNE R. GOLD

---

Wayne R. Gold, Regional Director  
National Labor Relations Board, Region 5  
103 South Gay Street, 8th Floor  
Baltimore, Maryland 21202

Attachments

**EXHIBIT A**

	Regular Hours	Gross Backpay	Calender Quarter Interim Earnings	Interim Expenses	Calender Quarter Net Backpay
3Q 2010	72	\$ 522.00			\$ 522.00
4Q 2010	182	\$ 1,319.50	\$348.00	\$9.00	\$ 971.50
1Q 2011	182	\$ 1,319.50	\$ 232.00	\$ 6.00	\$ 1,087.50
2Q 2011	182	\$ 1,319.50	\$ 754.00	\$ 20.00	\$ 565.50
3Q 2011	182	\$ 1,319.50	\$ 754.00	\$ 20.00	\$ 565.50
4Q 2011	182	\$ 1,319.50			\$ 1,319.50
1Q 2012	6	\$ 43.50			\$ 43.50
		<u>\$ 7,163.00</u>		<u>\$ 55.00</u>	<u>\$ 5,075.00</u>

**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO  
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

*(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)*

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

(OVER)

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8½ by 11 inch paper.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations, with respect to the procedure to be followed before the proceeding is transferred to the Board:

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

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

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

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

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case: 05-CA-36428 & 05-CA-36429

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the General Counsel, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

( 1 ) The request must be in writing. An original and two copies must be filed with the General Counsel and with the Chief Administrative Law Judge in Washington, D.C.

(2) Grounds must be set forth in **detail**;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; **and**

(5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

RESPONDENT:

MR. LUTHER R. PALMER  
PRESIDENTIAL MAINTENANCE, LLC  
1214 DOMINION TOWERS TERRACE  
RICHMOND, VA 23223

CHARGING PARTY:

MS. DENISE BOOKER  
1801 BLAIR STREET  
RICHMOND, VA 23220

CHARGING PARTY:

MR. DAVID DOWDELL  
21 W 27TH STREET  
RICHMOND, VA 23225

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

PRESIDENTIAL MAINTENANCE, LLC

and

DENISE BOOKER, AN INDIVIDUAL

DAVID DOWDELL, AN INDIVIDUAL

Cases 5-CA-36428  
5-CA-36429

DATE OF MAILING March 23, 2012

**AFFIDAVIT OF SERVICE OF Compliance Specification and Notice of Rescheduled Hearing**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by **post-paid certified mail, and overnight United States Parcel Service delivery**, upon the following persons, addressed to them at the following addresses:

**Certified Mail No. 7010 0780 0000 3626 4235**

**UPS Tracking No. 1Z A40 42V 01 9129 8067**

MR. LUTHER R. PALMER  
PRESIDENTIAL MAINTENANCE, LLC  
1214 DOMINION TOWNES TERRACE  
RICHMOND, VA 23223

Signed in Baltimore, Maryland this 23rd day of  March 2012	DESIGNATED AGENT  <i>/s/ Monica Graves</i>  NATIONAL LABOR RELATIONS BOARD
--	--

English

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Manage Your Mail

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Business Solutions

# Track & Confirm

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PRINT DETAILS

YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
7010078000030264236	/	Delivered	April 11, 2012, 4:00 pm	RICHMOND, VA 23223	Certified Mail
		Notice Left	March 26, 2012, 6:33 pm	RICHMOND, VA 23223	
		Arrival at Unit	March 26, 2012, 9:54 am	HENRICO, VA 23231	
		Processed through USPS Sort Facility	March 26, 2012, 8:21 am	SANDSTON, VA 23150	

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MOTION FOR DEFAULT JUDGMENT EXHIBIT 8

United States Government  
National Labor Relations Board, Region 5  
103 South Gay Street – 8<sup>th</sup> Floor  
Baltimore, MD 21202-4061

Attention: Ms. Heather Keough  
Compliance Officer

Dear Ms. Keough:

Today I write in reference to the motion of default judgment pursuant to section 102.56( c) of the Board's Rules and Regulations. I am asking the board not to file for default and to allow me my day in court to at least defend myself after not receiving an opportunity to do so earlier

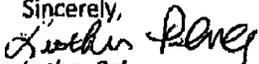
These charges that the department of Labor Relations decided to take upon their self to find me guilty without having my day in court to defend myself is really still not clear to me how the department can rule against me for releasing David Dawdell for threaten my life, and you allow him to coheres the United Stated Government into rulings against me. I suppose I was to wait until Mr. Dowdell brings a gun to work then release him. Nevertheless, I want my day in court in April.

I will be ready in court on the 30<sup>th</sup> day of April, 2012 in Senate Room 1, State Capital Building, Square 1000 Bank Street, Richmond, Virginia.

Everytime you send correspondence except for this particular time you said for this particular time you said United Parcel Service would deliver not taking into consideration the danger of not receiving it because UPS would leave it on the door step with access for any stranger to take and then you hold me accountable for not being able to retrieve it. That is also wrong.

I look toward my day in court. Thank You.

Sincerely,



Luther Palmer

Owner/Operator

Presidential Maintenance



United States Government

**NATIONAL LABOR RELATIONS BOARD**

Region 5, Washington Resident Office

1099 14<sup>th</sup> St., NW; Ste. 6300

Washington, DC 20570

**Shelly C. Skinner**

Telephone: 202-208-3041

Facsimile: 202-208-3013

April 3, 2012

Re: Presidential Maintenance, LLC  
Case 5-CA-036428

Mr. Luther Palmer  
Owner/Operator  
Presidential Maintenance, LLC  
1214 Dominion Townes Terrace  
Richmond, VA 23223

Dear Mr. Palmer:

On February 9, 2012, the Regional Director of Region 5 issued a Compliance Specification and Notice of Hearing for the above-named case. Because you stated that you did not receive the Compliance Specification and Notice of Hearing, the Regional Director re-issued this document on March 23, 2012. The re-issued Compliance Specification and Notice of Hearing stated that your answer must be "received by this office on or before April 13, 2012, or postmarked on or before April 12, 2012."

On April 2, 2012, your letter referencing the Motion for Default Judgment in this case was received by Region 5. Your letter does not constitute an adequate answer to the Compliance Specification and Notice of Hearing. Pursuant to Section 102.56(a) of the Board's Rules and Regulations, the respondent shall:

...within 21 days from the service of the specification, file an original and four copies of an answer thereto with the Regional Director issuing the specification, and shall immediately serve a copy thereof on the other parties. The answer to the specification shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed, and shall contain the mailing address of the respondent.

Furthermore, pursuant to Section 102.56(b) of the Board's Rules and Regulations, the answer must:

...specifically admit, deny, or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations of the specification at issue. When a respondent intends to deny only a part of an allegation,

the respondent shall specify so much of it as is true and shall deny only the remainder. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross backpay, 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.

Additionally, I want to inform you that while you discussed the facts of the underlying unfair labor practice charge in your letter of April 2, 2012, those facts will not be relitigated in the compliance proceeding. The sole purpose of the instant compliance proceeding is to determine the remedies involved in this case.

If you have any questions, you may contact me at 202-208-3041 or [Shelly.Skinner@nrlrb.gov](mailto:Shelly.Skinner@nrlrb.gov). Please remember that your answer must be received by this office by April 13, 2012, or postmarked by April 12, 2012.

Kind regards,

/s/ Shelly C. Skinner

Shelly C. Skinner

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*Mr. Luther Palmer*  
COMPANY  
*Presidential Maintenance, LLC*  
STREET ADDRESS DEPT./FLR. Residential Delivery  
*1214 Dominion Townes Terr.*  
CITY AND STATE ZIP CODE  
*Richmond, VA 23223*



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	<input type="checkbox"/> DECLARED VALUE FOR CARRIAGE <small>For declared value over \$100, see instructions.</small>	\$ AMOUNT	\$
	<input type="checkbox"/> C.O.D. <small>If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package.</small>	\$ AMOUNT	\$
	<input type="checkbox"/> An Additional Handling Charge applies for certain items. See instructions.		\$
7 ADDITIONAL HANDLING CHARGE			\$
TOTAL CHARGES			\$

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Sincerely,

UPS

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**Skinner, Shelly C.**

---

**From:** Skinner, Shelly C.  
**Sent:** Thursday, April 12, 2012 4:27 PM  
**To:** 'lutherrpalmer@yahoo.com'  
**Subject:** NLRB Cases 05-CA-036428 and 05-CA-036429, Presidential Maintenance, LLC  
**NxGen:** Uploaded

Dear Mr. Palmer:

On February 9, 2012, the Regional Director of Region 5 issued a Compliance Specification and Notice of Hearing for the above-named case. Because you stated that you did not receive the Compliance Specification and Notice of Hearing, the Regional Director re-issued this document on March 23, 2012. The re-issued Compliance Specification and Notice of Hearing stated that your answer must be "received by this office on or before April 13, 2012, or postmarked on or before April 12, 2012."

On April 2, 2012, your letter referencing the Motion for Default Judgment in this case was received by Region 5. Your letter did not constitute an adequate answer to the Compliance Specification and Notice of Hearing. Therefore, on April 3, 2012, I sent you a letter stating the requirements of an adequate answer. As stated in my letter, pursuant to Section 102.56(a) of the Board's Rules and Regulations, the respondent shall:

...within 21 days from the service of the specification, file an original and four copies of an answer thereto with the Regional Director issuing the specification, and shall immediately serve a copy thereof on the other parties. The answer to the specification shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed, and shall contain the mailing address of the respondent.

Furthermore, pursuant to Section 102.56(b) of the Board's Rules and Regulations, the answer must:

...specifically admit, deny, or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations of the specification at issue. When a respondent intends to deny only a part of an allegation, the respondent shall specify so much of it as is true and shall deny only the remainder. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross backpay, 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.

Today, April 12, 2012, you called me and stated that you will not be able to postmark your answer by today. You stated, however, that you will be able to fax your answer to the Region by tomorrow, April 13, 2012. The Region has decided that it will accept your faxed answer, as long as 1) it is received by

close of business tomorrow, April 13, 2012, 2) the original signed answer is sent to the Region by regular mail, and 3) you serve a copy of the answer on the other parties involved. The Region will make the four copies, referenced in the Board's Rules and Regulations.

If you have any questions, you may contact me at 202-208-3041 or [Shelly.Skinner@nlrb.gov](mailto:Shelly.Skinner@nlrb.gov). Please remember that your answer must be received by this office by April 13, 2012.

Sincerely,

Shelly C. Skinner, Esq.  
National Labor Relations Board  
Washington Resident Office  
1099 14th Street, N.W., Suite 6300  
Washington, D.C. 20570-0001  
Direct Dial: 202-208-3041  
Fax: 202-208-3013

United States Government  
National Labor Relations Board  
Region 5, Washington Resident Office  
1099 14th St. N.W. Ste 6300  
Washington DC. 20570

April 12th 2012  
Case 5-CA-036488

Mr. Skinner

Per our conversation 4/12/2012  
and based on your correspondence written 4/3/2012  
I am responding to the Compliance Specification  
and notice of hearing. Please excuse this hand  
written response.

On this 12th day of April 2012  
I here by agree by law I owe David some  
back pay but I disagree the amount. I think  
we must take into account the amount  
of time David took to respond to the  
offer of reinstatement and this is of his  
own doing.

I am quite sure we can come  
to a amicable solution on both parts.

Thank You much

Luther Palmer  
Owner/Operator  
Presidential Maintenance

MOTION FOR DEFAULT JUDGMENT EXHIBIT 13



United States Government

**NATIONAL LABOR RELATIONS BOARD**

Region 5

103 South Gay Street - 8th Floor

Baltimore, MD 21202 - 4061

Telephone: (410) 962-2880

Facsimile: (410) 962-2198

April 27, 2012

Mr. Luther Palmer  
Owner/Operator  
Presidential Maintenance, LLC  
1214 Dominion Townes Terrace  
Richmond, VA 23223

Re: Presidential Maintenance, LLC  
Cases: 5-CA-36428 and 5-CA-36429

Dear Mr. Palmer:

Our office is in receipt of your April 12, 2012, letter, which you state is an answer the Compliance Specification and Notice of Hearing issued by the Regional Director of Region 5 on February 9, 2012, and reissued on March 23, 2012. Unfortunately, your letter does not constitute an adequate answer to the Compliance Specification and Notice of Hearing. As you have been advised, Section 1 02.56(a) of the Board's Rules and Regulations, requires the respondent to:

... within 21 days from the service of the specification, file an original and four copies of an answer thereto with the Regional Director issuing the specification, and shall immediately serve a copy thereof on the other parties. The answer to the specification shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed, and shall contain the mailing address of the respondent.

Furthermore, pursuant to Section 1 02.56(b) of the Board's Rules and Regulations, the answer must:

... specifically admit, deny, or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations of the specification at issue. When a respondent intends to deny only a part of an allegation, the respondent shall specify so much of it as is true and shall deny only the remainder. As to all matters within the knowledge

of the respondent, including but not limited to the various factors entering into the computation of gross backpay, 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 you do not file an adequate answer by May 4, 2012, the Region will file a Motion for Default Judgment.

In your letter you state that you agree you owe some backpay but that an alleged delay in David Dowdell's reinstatement should be taken into consideration. If you believe the backpay amount should be decreased you must submit supporting documentation. You made similar claims during the compliance investigation stage of this case but failed to provide dated documents to establish that David Dowdell failed to respond to the offer of reinstatement in a timely manner. In fact, the evidence in our files establishes the delay was the result of circumstances beyond Mr. Dowdell's control; specifically, that the DMV required him to submit to a background check.

Additionally, your letter indicates that you believe we can come to an amicable resolution. We have discussed the possibility of settlement before, including an installment plan. I provided you with draft documents and described the forms of security you would need to obtain in order for the Region to approve an installment plan. Those documents are again included with this letter, along with a sample promissory note. This is only one type of security you could obtain, you may obtain another form, through a financial institution or by awarding contract proceeds to the National Labor Relations Board. If you are unsure about what the different types of security require, I encourage you to consult with your attorney, or call me and I will provide you with some information. Ultimately, however, only you can take action to obtain the security.

If you have any questions, you may contact me at (410) 962-2880. If we fail to make progress in settlement discussions, and if you fail to file an adequate answer by May 4, 2012, the Region will file a Motion for Default Judgment.

Truly yours,



Heather Keough  
Compliance Officer

Enclosures: Draft Installment Agreement  
Sample Promissory Note

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
SETTLEMENT AGREEMENT

**In the matter of: Presidential Maintenance, LLC      5-CA-36428 and 5-CA-36429**

**BACKPAY INSTALLMENT PAYMENT AGREEMENT**

In full satisfaction of all monetary obligations it may have in Board Case 357 NLRB No. 42 Presidential Maintenance, LLC, agrees to pay backpay in the total amount of FIVE THOUSAND AND SEVENTY-FIVE DOLLARS (\$5,075), in monthly installment payments beginning on June 1, 2012, and continuing every month until fully paid, to DAVID DOWDELL on the date, and in the amount, set forth below.

Additionally, Presidential Maintenance, LLC, agrees to pay interest and expenses in the total amount of FOUR HUNDRED AND THREE DOLLARS (\$403), in quarterly installment payments beginning on June 1, 2012, and continuing every quarter until fully paid, to DAVID DOWDELL on the date, and in the amount, set forth below:

Date	Back Pay Amount	Interest Amount
June 1, 2012	\$422.91	\$100.75
July 2, 2012	\$422.91	
August 1, 2012	\$422.91	
September 4, 2012	\$422.91	\$100.75
October 1, 2012	\$422.91	
November 1, 2012	\$422.91	
December 3, 2012	\$422.91	\$100.75
January 2, 2013	\$422.91	
February 1, 2013	\$422.91	
March 1, 2013	\$422.91	\$100.75
April 1, 2013	\$422.91	
May 1, 2013	\$422.99	

All payments will be made to the Board's offices located at Bank of America Center – Tower II, 100 S. Charles Street, Baltimore, Maryland 21201. Presidential Maintenance, LLC, will make appropriate withholdings for the named employee.

In consideration of the Board granting this installment payment schedule, Presidential Maintenance, LLC, further agrees that, in the event of any failure to make a scheduled payment, or to cure any such failure within fourteen (14) days, the total amount of backpay set forth above, less any amounts paid, shall become immediately due and payable.

In order to ensure full payment under this Backpay Installment Payment Agreement, Presidential Maintenance, LLC, has executed the attached [Promissory Note] [Assignment of Contract Proceeds] [Real Property Mortgage] [Real Property Deed of

Trust] [Bond] [Security Agreement (with Financing Statement)] [Surety Bond] as security for full payment.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Luther Palmer, Presidential Maintenance, LLC

**PROMISSORY NOTE**

[Luther Palmer] OR [Other Third Party], for value received, promises to pay to the order of the National Labor Relations Board, at its offices located at Bank of America Cnetr – Tower II, 100 South Charles Street, Baltimore, Maryland 21201 the sum of FIVE THOUSAND AND SEVENTY-FIVE DOLLARS (\$5,075) payable in MONTHLY installments of \$422.91 each beginning June 1, 2012, and on the first day of each month thereafter, including the 12<sup>th</sup> and final payment due and payable on May 1, 2013 in the amount of \$422.99.

Additionally, [Luther Palmer] OR [Other Third Party], for value received, promises to pay to the order of the National Labor Relations Board, at its offices located at Bank of America Cnetr – Tower II, 100 South Charles Street, Baltimore, Maryland 21201 the sum of FOUR HUNDRED AND THREE DOLLARS (\$403) payable in QUARTERLY installments of \$100.75 each beginning June 1, 2012, and on the first day of each third month thereafter, including the 4<sup>th</sup> and final payment due and payable on March 1, 2013.

It is agreed that if [Luther Palmer] OR [Other Third Party] fails to make any payment as provided above, the entire balance remaining unpaid shall, at the option of the holder hereof, without notice, be and become due and payable immediately.

\_\_\_\_\_  
[Luther Palmer] OR [Other Third Party]

Address \_\_\_\_\_  
\_\_\_\_\_

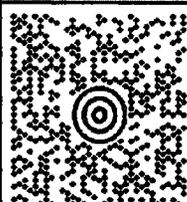
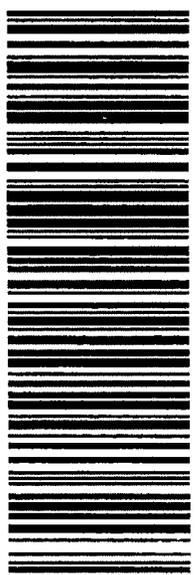
UPS CampusShip: View/Print Label

1. **Ensure there are no other shipping or tracking labels attached to your package.** Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. **Fold the printed sheet containing the label at the line so that the entire shipping label is visible. Place the label on a single side of the package and cover it completely with clear plastic shipping tape. Do not cover any seams or closures on the package with the label.** Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.
3. **GETTING YOUR SHIPMENT TO UPS**  
**UPS locations include the UPS Store®, UPS drop boxes, UPS customer centers, authorized retail outlets and UPS drivers.**  
 Find your closest UPS location at: [www.ups.com/dropoff](http://www.ups.com/dropoff)  
 Take your package to any location of The UPS Store®, UPS Drop Box, UPS Customer Center, UPS Alliances (Office Depot® or Staples®) or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.

**Customers with a Daily Pickup**

Your driver will pickup your shipment(s) as usual.

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<p>JOHN CHAMBERS 4109621712 NLRB-MD-CHAMBERS 103 S GAY ST BALTIMORE MD 21202</p> <p>SHIP TO: MR. LUTHER PALMER, OWNER/OPERATOR PRESIDENTIAL MAINTENANCE, LLC 1214 DOMINION TOWNES TERRACE RICHMOND VA 23223-2279</p>	<p>VA 232 9-30</p>  	<p>UPS NEXT DAY AIR <b>1</b></p> <p>TRACKING #: 1Z A40 42V NT 9759 9324</p>		<p>BILLING: P/P ATTENTION UPS DRIVER: SHIPPER RELEASE</p> <p>Department: file 05-CA-036428 &amp; 05-CA-036429 First Initial Last Name: B. Szabo</p>  <p>CS 111100 W0P0E70 24 0A 01/2012</p>
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MOTION FOR DEFAULT JUDGMENT EXHIBIT 14

# UPS: Tracking Information



## Proof of Delivery

[Close Window](#)

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

**Tracking Number:**

1ZA4042VNT97599324

**Service:**

UPS Next Day Air®

**Weight:**

.50 lb

**Shipped/Billed On:**

04/27/2012

**Delivered On:**

04/30/2012 10:02 A.M.

**Delivered To:**

RICHMOND, VA, US

**Left At:**

Front Door

Thank you for giving us this opportunity to serve you.

Sincerely,

UPS

Tracking results provided by UPS: 05/09/2012 10:17 A.M. ET

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