

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

**PARAGON SYSTEMS, INC.,**

**Respondent,**

**v.**

**ARTHUR J. BLAKE,**

**Charging Party.**

**Case No. 10-CA-095371**

**RESPONDENT'S EXCEPTIONS TO THE  
ADMINISTRATIVE LAW JUDGE'S DECISION**

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Dated: March 7, 2014

Pursuant to the National Labor Relation Board's Rules and Regulations, including 29 C.F.R. § 102.46 thereof, Respondent Paragon Systems, Inc. hereby files the following exceptions to the Administrative Law Judge's Decision ("Decision") issued by Administrative Law Judge Heather Joys on February 7, 2014:

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
1	3	8	To the Administrative Law Judge's failure to find that the Department of Homeland Services awarded a federal contract to Paragon to provide guard services for all of the federal buildings in the State of Georgia where the Federal Protective Services ("FPS") was responsible for building security.
2	3	34	To the Administrative Law Judge's finding that the contracting officer was Michael Deprecio and to the ALJ's failure to find that the name of the contracting officer was Michael DeCrescio.
3	3	40	To the Administrative Law Judge's failure to find that Inspector Dingman was responsible for monitoring Paragon's compliance with the contract and making sure that the PSOs who were standing post were adhering to the training that they had received from FPS and Paragon, and that these PSOs were properly implementing the security measures that FPS had put in place at the assigned federal buildings.
4	3	42	To the Administrative Law Judge's failure to find that the Army Corp of Engineers ("COE") Building was a Level 4 security facility, which is the highest level of security other than a few buildings like the Pentagon, CIA headquarters or DHS headquarters that were Level 5 facilities.
5	3	42	To the Administrative Law Judge's failure to find that FPS promoted Inspector Dingman to the position of Senior Instructor for Federal Law Enforcement Training Centers under the FPS's Protective Service Officers Branch.
6	3	12	To the Administrative Law Judge's failure to find that the FPS is a government entity and is not subject to the National Labor Relations Act.
7	3	12	To the Administrative Law Judge's failure to find that the Statement of Work ("SOW") gives FPS substantial control for the selection, training, working conditions, work responsibilities and continued employment of guards on federal contracts, as well as the right to conduct inspections and make recommendations regarding removal of PSOs from federal contracts.

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8	4	11-29	To the Administrative Law Judge's failure to find that the three PSOs previously worked on the contract for Paragon's predecessor and were trained by that predecessor.
9	4	37	To the Administrative Law Judge's failure to find that the settlement agreement included a non-admissions clause and that there was never any finding by the National Labor Relations Board regarding the lawfulness of Paragon's "Chain of Command" Rule
10	5	12	To the Administrative Law Judge's failure to find that Paragon has entered into Collective Bargaining Agreements with a number of different unions and that roughly 90% of Paragon's operations employ union represented workers and that Paragon does not oppose union representation at its worksites.
11	5	25	To the Administrative Law Judge's finding that negotiations were heated at times.
12	5	25-27	To the Administrative Law Judge's finding that that Les Kaciban threatened to fire all of the union team during these negotiations.
13	5	25-27	To the Administrative Law Judge's failure to find that Les Kaciban told the Union's negotiating team that the first bargaining session was "preemptive to anything else" and that PSOs who attended negotiations were required to "call in", meaning if they missed a scheduled shift because they attended negotiations and did not give the required advanced notice that would allow Paragon to cover the assigned shift.
14	5	29-32	To the Administrative Law Judge's finding that that the Union's forwarding of a strike notice to all bargaining committee members constituted making the strike "public", and to the implied finding that Paragon's Contingency Plan to strike was forwarded to FPS at the time that the strike notice was forwarded to bargaining committee members.
15	5	29-32	To the Administrative Law Judge's failure to find that Paragon's Strike Contingency Plan was not forwarded to FPS until after Inspection Dingmans investigation took place.
16	5	29-32	To the Administrative Law Judge's failure to find that Arthur Blake's notification to Colonel Hall of the potential strike was the event that "made public" the possibility of a strike.
17	5	29-32	To the Administrative Law Judge's failure to find that Paragon was unaware of any particularized threat to a specific building's security prior to the meeting Arthur Blake had with Colonel Hall.
18	5	10-11	To the Administrative Law Judge's finding that the parties entered into a Collective Bargaining Agreement in February 2012.
19	6	6	To the Administrative Law Judge's failure to find that Blake did not load or unload any materials into his vehicle.

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20	6	7	To the Administrative Law Judge's failure to find that the documents that Baker handed to Blake were the documents that Blake then delivered to Colonel Hall.
21	6	17	To the Administrative Law Judge's failure to find that the applicable sign stated that the vehicles must be moved to "regular parking area" after loading or unloading.
22	6	40	To the Administrative Law Judge's failure to find that Inspector Beuning did not know whether Blake had loaded or unloaded any material from his vehicle, and Beuning did not know how long Blake had been parked in the loading dock area.
23	7	7	To the Administrative Law Judge's failure to find that Mr. Fields knew that if all the PSOs at the COE Building went on strike together, Paragon would not be able to staff each of the posts at the COE building, and he knew that Paragon was obligated under the SOW to report this fact to FPS and that FPS would want to know that the tenant agency had been made aware of a possible strike.
24	7	11	To the Administrative Law Judge's failure to find that Inspector Dingman did not ask Mr. Fields for his opinion on what she should do, and he did not volunteer any opinion or suggest that she investigate the situation or talk to any particular person.
25	7	11	To the Administrative Law Judge's failure to find that FPS had just three inspectors and one area commander in the applicable geographic area, which meant that FPS did not have adequate coverage for the five posts at the COE Building.
26	7	22-23	To the Administrative Law Judge's failure to find that the reason Inspector Dingman did not contact Colonel Hall directly was because she did not want to bring the tenant agency (COE) into the situation if she could avoid doing so.
27	7	36	To the Administrative Law Judge's failure to find that Baker claimed to have made a call to Edmiston but claimed she did not answer.
28	7	38	To the Administrative Law Judge's failure to find that Baker knew exactly what Inspector Dingman was asking about since he had been on the post when PSO Blake had entered the facility, and it was Baker who handed Blake the packet of materials that Blake delivered to Colonel Hall.
29	7	42-43	To the Administrative Law Judge's finding that Baker told Dingman that Blake had come to the building "much earlier" than her question had implied.
30	8	12	To the Administrative Law Judge's finding that Baker's understanding was that the loading dock could be used for building access as long as the individual employee did not intend to be there more than 15 minutes and had his government issued credentials.

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31	8	22	To the Administrative Law Judge's failure to find that Dingman had been previously unaware of the prior NLRB charge regarding the "Chain of Command" Rule, and the ALJs failure to find that there is a distinction between how the Chain of Command Rule applied in an operational context and how the Chain of Command Rule applied to PSOs during off-duty time.
32	9	5	To the Administrative Law Judge's failure to find that Dingman asked Blake a series of questions about why he had parked in the loading dock entrance when he was not unloading anything and why he had not gone through the screening security procedures where applicable to visitors at the COE Building.
33	9	5	To the Administrative Law Judge's failure to find that Blake acknowledged that he had no prearranged visit with the Colonel and was escorted until he reached the third floor.
34	9	8	To the Administrative Law Judge's failure to find that Blake admitted that he had been trained that PSOs were only authorized to carry their weapons to and from work.
35	9	15-16	To the Administrative Law Judge's finding that Dingman told Blake that, if the Union did strike, the PSOs would lose their jobs and never be able to work on another federal contract.
36	9	18	To the Administrative Law Judge's finding that Dingman did not deny Blake's testimony about whether strikers would lose their jobs or work on subsequent federal contracts.
37	9	25	To the Administrative Law Judge's failure to find that Holland was evasive in his responses to Dingman.
28	9	25	To the Administrative Law Judge's failure to find that Holland admitted to having had an "extended conversation" with Blake and Baker regarding the materials Blake delivered to Colonel Hall.
29	9	25	To the Administrative Law Judge's failure to find that Holland acknowledged in his conversation with Dingman that he was wrong on an earlier occasion when he wore his uniform and weapon to the Savannah Credit Union while on break from the COE Building and that Holland acknowledged a pair of incidents when he and Blake went to other federal buildings while off-duty for personal business and that Blake had done this while in full uniform and wearing his weapon.
30	9	29	To the Administrative Law Judge's failure to find that Holland admitted that he had be taught in training not to lie to federal officers and not to socialize on post with other officers.
31	9	29	To the Administrative Law Judge's failure to find that Edmiston remained quiet and did not ask any questions or comments and that Dingman did not solicit Edmiston views regarding the PSO statement.

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
32	9	43	To the Administrative Law Judge's finding that Dingman's failure to comment in her report about the statement she made concerning strike activity was understandable since her report focused on security violations and dishonesty, which had no bearing on the consequences of striking.
33	10	19	To the Administrative Law Judge's failure to identify the Code of Federal Regulation Sections Dingman determined had been violated by Blake.
34	10	33-35	To the Administrative Law Judge's failure to find that Dingman's transmittal e-mail message from Nunnally stated: "It is my recommendation from the information I have gathered that all three be removed from the contract for lack of candor and blatant disregard of Federal Law."
35	11	28	To the Administrative Law Judge's finding that Hagan did not specify the rule that PSOs had violated by using their credentials to access the facility off-duty in order to circumvent the screening process.
36	11	28	To the Administrative Law Judge's failure to find that the Employee Manual (Security Guard Information Manual) contained rules of personal conduct that were violated by off-duty PSOs using their credentials to circumvent building security.
37	11	36	To the Administrative Law Judge's failure to discuss Section 16(a)(3) of the SOW, which states that FPS could request the removal of any PSO from federal contracts and that the "contractor must comply with these requests in a timely manner".
38	11	46	To the Administrative Law Judge's failure to find that no additional investigation was appropriate given the completeness of Inspector Dingman's findings.
39	12	7	To the Administrative Law Judge's failure to find that the nearest non-FPS contract that Paragon had with other government agencies were in Mississippi, Maryland, and North Carolina, so there was no reasonable place move the PSOs if Paragon had wanted to do so.
40	12	21-33	To the Administrative Law Judge's failure to find that FPS did not need to use the formal removal procedure if FPS recommends that a contractor remove a PSO, and the contractor complies.
41	12	35-37	To the Administrative Law Judge's failure to find that Paragon's failure to comply with the request by FPS to remove PSOs from a contract could be used adversely against Paragon in the annual performance evaluation that FPS conducted regarding Paragon's contract performance.

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42	12	39-45	To the Administrative Law Judge's failure to find that Paragon's Security Officer Handbook states that major offenses that can result in immediate termination include "failure to cooperate in official investigations", "willful interference with official investigations", "willful interference with official investigation", "improper use of official authority or credentials", "failure to demonstrate the highest standard of integrity, personal and moral conduct", and "violation of agency and contractor security procedures and regulations and violations of the rules and regulations governing public buildings as set forth in CFR Subpart I-20.3 Conduct on Federal Property."
43	13	1-11	To the Administrative Law Judge's failure to find that progressive disciplinary procedures were not applicable for major rule offenses and that the conduct of Blake, Baker, and Holland constituted major rule offenses.
44	13	25-33	To the Administrative Law Judge's failure to find that government credentials are issued to PSOs for the limited purpose of allowing access to their assigned building for work purposes and that the credentials are issued pursuant to the authority of Homeland Security Presidential Directive Number 12.
45	13	25-33	To the Administrative Law Judge's failure to find that contractor employees like Paragon's PSOs must enter an agreement when they are cleared to receive the government credential and the agreement specifically advises them that the card is for "official use only, not for personal use".
46	13	25-33	To the Administrative Law Judge's failure to find that the Security Guard Information Manual states that all keys and cards under a PSOs control "are to be used in the performance of official duties only."
47	13	25-33	To the Administrative Law Judge's failure to find that no witness testified that Inspector Dingman had ever witnessed any PSOs at the COE building or elsewhere circumventing security by showing the credentials.
38	13	25-33	To the Administrative Law Judge's failure to find that there was no testimony from any witness asserting that Paragons' decision making group (Laura Hagan, Roman Gumul, and Nicole Ferritto) were aware of any instance where off-duty employees accessed buildings by using their credentials to circumvent security equipment at those building entrances.
39	13	38-42	To the Administrative Law Judge's failure to fully quote testimony of Donald Holcomb at transcript pp. 570-571, and to the ALJs finding that truncated excerpt suggests that PSOs are never allowed entry into a building without being screened as a visitor, as they are only on duty when they are on post.

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
40	13	38-42	To the Administrative Law Judge's failure to find that Holcomb testified that, any time a PSO comes to the building, the PSO has a credential with a photo but that off-duty PSOs must go through the screening processes.
41	14	1-3	To the Administrative Law Judge's finding that Holcomb's testimony was confusing and inconsistent with other testimony that PSOs must be treated as visitors with off-duty.
42	14	7-9	To the Administrative Law Judge's finding that witnesses testified that off-duty PSOs by-passed the security in the presence of officials from FPS and Paragon's management.
43	14	7-9	To the Administrative Law Judge's failure to find that Sergeants were members of the bargaining unit at the time of the incidents testified to by witnesses and that Paragon had a difficult time getting sergeants to report violations by federal union members during that time frame.
44	14	9-10	To the Administrative Law Judge's finding that Inspector Beuning's conversation with Blake on the loading dock is evidence that FPS knew Blake had entered the facility without going through the screening process.
45	14	11-12	To the Administrative Law Judge's finding that Vernon Fields witnessed PSO Kabacova enter the facility one time off-duty without going through the screening process.
46	14	14-22	To the Administrative Law Judge's finding that Arrick Todman's testimony provided examples of specific instances in which respondent supervisors either engaged in or witnessed off-duty PSOs use credentials to bypass security.
47	15	9-25	To the Administrative Law Judge's conclusion that <u>The Department of the Navy v. Egan</u> , 44 U.S. 518 (1988) is not applicable to Inspector Dingman's security-related decisions.
48	15	9-25	To the Administrative Law Judge's finding that the facts in this case are inapposite to <u>Egan</u> .
49	15	25-26	To the Administrative Law Judge's finding that FPS did not require PSOs to be issued to have a security clearance.
50	15	26-27	To the Administrative Law Judge's mischaracterization of Hagan's testimony concerning suitability determinations and security clearances. To the Administrative Law Judge's finding that PSOs did not require a security clearance.
51	15	29-31	To the Administrative Law Judge's finding that a "required security clearance provided by the agency requiring the clearance, in other words, the agency responsible for protection for the classified information."
52	15	33-34	To the Administrative Law Judge's finding that Hagan admitted there was no change in FPSs suitability determination for Blake, Baker, or Holland.

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53	15	36-39	To the Administrative Law Judge's finding and conclusion that <u>Egan</u> should not apply in this case because FPS did not revoke any of the PSO's suitability determinations and because Dingman's investigation was not initiated for the purpose of reviewing the PSO's suitability determinations.
54	15-16	42-3	To the Administrative Law Judge's finding and conclusion that the "federal enclave doctrine" did not apply because this proceeding does not involve any type of State regulation.
55	16	9-21	To the Administrative Law Judge's conclusion that <u>Wright Line</u> , 251 NLRB 1083 (1980) is the applicable legal standard for analyzing the alleged unfair labor practices in this case and to the manner in which the Administrative Law Judge describes the burdens of proof under <u>Wright Line</u> .
56	16	31-39	To the Administrative Law Judge's description of the General Counsel's contentions in this case.
57	16-17	40-3	To the Administrative Law Judge's description and summary of respondent's contentions in this case.
58	17	22-23	To the Administrative Law Judge's finding and conclusion that the General Counsel established a prima facie showing under <u>Wright Line</u> .
59	17	27-28	To the Administrative Law Judge's finding that Blake, Baker, and Holland engaged in activity by bringing a potential strike to the attention of Colonel Hall.
60	17	34-37	To the Administrative Law Judge's finding and conclusion that the General Counsel met its burden under <u>Wright Line</u> and that the circumstances, reviewed as a whole, established that Paragon's discharge decisions were discriminatorily motivated.
61	17	37-40	To the Administrative Law Judge's finding and conclusion that Inspector Dingman had an unlawful animus towards the three PSOs and that Respondent was aware of such unlawful animus and deliberately conducted an inadequate investigation into the allegations against the three PSOs in order to justify the decision to discharge them.
62	17	42-48	To the Administrative Law Judge's finding and conclusion in footnote 11 and the ALJs conclusion that the analytical framework set out in <u>NLRB v. Burnup &amp; Sims</u> , 379 U.S. 21 (1964) is not applicable in the instant case despite the fact that the ALJ found that the three PSOs engaged in protected activity and were discharged for actions that occurred while they were engaged in protected activity.
63	17	42-48	To the Administrative Law Judge's ("ALJ") failure to apply the Board's holding in <u>Akal Security, Inc.</u> , 354 NLRB No.1 (2009) to the present case.

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64	18	3-5	To the Administrative Law Judge's finding that Vernon Field's explanation for calling Inspector Dingman and Inspector Dingman's explanation for conducting an investigation is not credible.
65	18	7-11	To the Administrative Law Judge's finding that, prior to contacting Dingman, Fields had been aware for several weeks that the Union had issued a strike notice, and to the finding that Dingman had requested a Strike Contingency Plan at some time during contract negotiations.
66	18	10-11	To the Administrative Law Judge's finding that there was no need for Dingman to investigate whether a strike was imminent for contingency planning purposes.
67	18	10-11	To the Administrative Law Judge's failure to find that the threatened work stoppage at the COE Building was the first time the Union had identified its location for a strike, and to the ALJs failure to find that, unlike any generalized strike threat, the specific threat at the COE Building posed a threat to security at the building because neither Paragon nor FPS had adequate non-bargaining unit personnel to cover all posts at the COE Building in the event of a work stoppage.
68	18	13-15	To the Administrative Law Judge's finding that she believes it is telling that Fields acted only after Blake contacted Colonel Hall and that Dingman focused her investigation on who delivered the strike notice and the manner in which the strike notice was delivered rather than on the likelihood of a strike.
69	18	15-17	To the Administrative Law Judge's finding that Dingman never asked anyone about the likelihood of a strike and was unable to explain why she never asked.
70	18	15-17	To the Administrative Law Judge's failure to find that Dingman's investigation focused on whether a strike notice had been delivered to Colonel Hall and that her attention turned to violations of security policies and lack of candor by the PSOs. When she saw the video tape showing Blake and Baker engaged in security procedure violations and when Baker and Holland were untruthful to her during the investigation.
71	18	17-18	To the Administrative Law Judge's finding that Dingman had antipathy toward the Union and toward Blake because of the strike threat and the contact with the tenant client.
72	18	18-20	To the Administrative Law Judge's discrediting of Fields testimony about when and why he contacted Dingman, and to the ALJs failure to identify any evidence contradicting Fields testimony in this regard or undermining Fields credibility on this point of his testimony. The ALJ erred by engaging in speculation rather than relying upon record evidence.

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
73	18	20-21	To the Administrative Law Judge's finding that Fields testified that he did not know why Dingman would interview employees.
74	18	21-23	To the Administrative Law Judge's finding that it is unlikely Fields would have no understanding of why Dingman would be interviewing employees whom he supervised after contacting her only days before.
75	18	23-24	To the Administrative Law Judge's finding and conclusion that Dingman's purpose and focus was Blake's discussing PSO grievances and the strike notices with the Colonel.
76	18	26-27	To the Administrative Law Judge's finding that the record contains direct evidence of Dingman's anti-union animus and Respondent's knowledge of the animus.
77	18	27-28	To the Administrative Law Judge's finding that Dingman told each of the PSOs that a strike would result in their termination and inability to ever work another government contract.
78	18	28-29	To the Administrative Law Judge's finding that Dingman admonished the PSOs about going directly to the building tenant with workplace concerns.
79	18	29-30	To the Administrative Law Judge's finding that Dingman's statements establish a negative attitude towards the PSOs protected activity.
80	18	31-32	To the Administrative Law Judge's finding that Respondent was aware of Dingman's anti-union motivation because Edmiston attended the interviews about the PSOs.
81	18	34-35	To the Administrative Law Judge's finding and conclusion that there was sufficient circumstantial evidence to establish that Respondent itself acted with discriminatory motive.
82	18	35-36	To the Administrative Law Judge's conclusion that Respondent made the decision to discharge the three PSOs without conducting any investigation, and to the ALJs failure to find that Respondent could reasonably rely upon the investigation conducted by Dingman without the need to conduct an independent investigation and/or evaluation, given the clear and undisputed evidence that the PSOs had violated security procedures and had shown a lack of candor and honesty during the investigation.
83	18-19	36-1	To the Administrative Law Judge's finding and conclusion that Respondent's failure to take additional investigative steps supports an inference of animus and discriminatory motivation, and to the ALJs conclusion that the cases cited in this portion of the Decision are applicable to the instant case.

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
84	19	2-4	To the Administrative Law Judge's finding that Dingman's report referenced an understanding by the PSOs that they had not engaged in any direct rule or violation and that the report would have led a reasonable employer to question and investigate whether Blake and Baker had engaged in the misconduct alleged.
85	19	2-4	To the Administrative Law Judge's failure to find that, while the PSOs asserted that they were unaware that off-duty PSOs should be treated as visitors for security purposes, the PSOs did not provide evidence of dispute that their other conduct violated security procedures or constituted a lack of candor.
86	19	4-6	To the Administrative Law Judge's finding and speculation that an investigation of the procedure for off-duty employee bypassing screening would have determined that it was a wide-spread practice and not a clear and well-enforced rule violation.
87	19	8-10	To the Administrative Law Judge's finding that it was common practice for off-duty PSOs to use credentials to enter facilities without been screened and that this was done in the presence of Respondent's managers.
88	19	10-11	To the Administrative Law Judge's finding that Fields and Edmiston's denial concerning such conduct lacked credibility and to the ALJs failure to find that there was no testimony indicating that Edmiston ever observed an off-duty employee circumventing security by using the PSOs credentials and there was no evidence that Fields was aware of any wide-spread practice in this regard.
89	19	11-12	To the Administrative Law Judge's finding that Paragon did not treat similar conduct in the same manner.
90	19	12-16	To the Administrative Law Judge's finding that knowledge of sergeants about alleged infractions should be inputted to Respondent despite sergeants being members of the bargaining unit.
91	19	18-20	To the Administrative Law Judge's finding that Respondent's witnesses did not explain why no actions were taken against the PSOs, and to the ALJ's failure to find that Respondent took no actions because it did not want to interfere with the FPS investigation or substitute its judgment of FPS on the matters being investigated.
20	19	21-24	To the Administrative Law Judge's failure to find that Edmiston provided a reasonable explanation for her failure to act and that she did not want to interfere with the FPS investigation.
21	19	24-26	To the Administrative Law Judge's reliance on <u>Temp-Rite Air Conditioning Corp.</u> , 322 NLRB 676 (1996) as support for her findings about Respondent's lack of interference with the FPS investigation.

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
22	19	28-36	To the Administrative Law Judge's finding that Respondent's Progressive Disciplinary Policy applied to the situations involving Blake, Baker and Holland and that Respondent did not follow the policy and that failure to follow the Progressive Disciplinary Policy raises an inference of discriminatory motive.
23	19	33-35	To the Administrative Law Judge's finding that the three PSOs had not committed any of the offenses enumerated in Respondents Progressive Disciplinary Policy that might result in discharge for a first offense.
24	19	35-26	To the Administrative Law Judge's finding that Respondent's Progressive Disciplinary Policy, if applied, would not have led to a discharge decision absent discriminatory motive.
25	19	38-40	To the Administrative Law Judge's finding that Respondent was not required to discharge Blake, Baker, and Holland under its contract with FPS and that Paragon's statements and termination notices to that effect were misrepresentations.
26	19-20	40-3	To the Administrative Law Judge's finding that the SOW requires FPS to use a formal removal procedure to remove a client from a contract, and the ALJ's failure to find that FPS has the contractual right to request removal of any PSO without going through the formal removal procedure and that, where there is an evidentiary basis for FPS's request, Paragon must comply with the request.
27	20	2-3	To the Administrative Law Judge's finding that FPS did not request the removal of the PSOs from the contract.
28	20	4-6	To the Administrative Law Judge's finding that Hagan testified that Respondent was without any option to challenge a removal request by FPS.
29	20	5-6	To the Administrative Law Judge's finding and conclusion that Paragon made its discharge decision absent a direct removal request by FPS to remove the PSOs from the contract.
30	20	8-10	To the Administrative Law Judge's finding and conclusion that the General Counsel has met his burden to establish that the three PSOs were terminated because of protected and union activity.
31	20	14-20	To the Administrative Law Judge's characterization of Respondents contentions.
32	20	18-20	To the Administrative Law Judge's finding that the evidence involving PSO Dozier's termination and PSO Williams termination does not constitute evidence of similar security breaches and lack of candor sufficient to meet Respondent's burden of proof that the PSOs would have been discharged because of their security violations and lack of candor even absent the alleged discriminatory motive.

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
33	20	22-25	To the Administrative Law Judge's finding that Hagan's testimony about Dozier lacked details and corroboration, and to the ALJs failure to find that Paragon's treatment of Dozier's situation demonstrates that it takes improper use of credentials seriously for purposes of termination decisions.
34	20	24-27	To the Administrative Law Judge's finding that Dozier's situation was not one in which he was similarly situated to the PSOs, and to the ALJs finding that Respondent needed to present more evidence than the uncontradicted evidence presented on this point.
35	20	25-27	To the Administrative Law Judge's finding that Paragon's evidence regarding Dozier was insufficient to meet its burden because Dozier's situation occurred after the date of the discharges in this case.
36	20	29-38	To the Administrative Law Judge's finding that the discharge of PSO Williams was not similarly situated to the PSOs in the instant case and that his discharge is not evidence that supports Respondents burden of proof on what action would have been taken absent a alleged discriminatory motive.
37	20	30-32	To the Administrative Law Judge's finding that the situation involving Williams was different from the situation involving the three PSOs because Williams allegedly had been informed on repeated occasions about the specific rules addressing contractor employee identification.
38	20	32-36	To the Administrative Law Judge's finding that lack of the attachment leads to the conclusion that the addition of the attachment would result in unfavorable evidence for Respondent.
39	20	36-38	To the Administrative Law Judge's finding that "the rule at issue in this case was not clearly communicated or persistently enforced", and to the ALJs finding that Respondent's example is too distinct in the instant case to meet its burden of proof.
40	20	40-41	To the Administrative Law Judge's finding that the "purported security breach at issue in the instant case" is not a clear rule violation warranting discharge, and to the ALJs failure to find that there were other rule violations that motivated the discharge as well.
41	20	42-44	To the Administrative Law Judge's finding that neither the SGIM nor the post orders for the building contain a rule specifically prohibiting off-duty employees from using their credentials to bypass screening.
42	20	44-46	To the Administrative Law Judge's finding that the SGIM's prohibition against unethical or improper use of credentials is not a clear admonition against the conduct at issue in this case.

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
43	21	1-3	To the Administrative Law Judge's finding that Section 5.5 of the SGIM is not a sufficiently clear admonition against off-duty PSOs using credentials to circumvent security procedures, and to the ALJs finding that Respondent's reading of Section 5.5 is tortured.
44	21	2-4	To the Administrative Law Judge's finding that Respondent's evidence regarding PSO training was confusing and not credible and the ALJs failure to find that PSOs were trained to use their credentials only for official use while working and not for off-duty visits to federal buildings.
45	21	4-6	To the Administrative Law Judge's finding that Respondent failed to meet its burden to establish that its discharge decision based on the alleged rule violation would have been made in the same manner absent the discriminatory motive.
46	21	1-6	To the Administrative Law Judge's failure to find that the discharge provisions in the present case were taken because of multiple rule violations not discussed by the ALJ, including: Blake parking in the loading dock when he was doing no loading or loading activities; Blake parking in the loading dock for more than 15 minutes despite clear signage preventing such conduct; Blake discussing personal matters for an extended period with on-duty PSOs; Blake wearing a weapon while visiting other federal buildings where Blake did not work; and lack of candor in connection with the investigation, which were all material security rule violations separate and apart from the question of whether PSOs violated security policies by using credentials to bypass security when entering building off-duty.
47	21	1-6	To the Administrative Law Judge's failure to find that the uncontroverted security violations were a legitimate and reasonable basis for complying with Inspector Dingman's recommendations regarding the removal of the PSOs from the contract.
48	21	8-9	To the Administrative Law Judge's finding that Respondent presented no evidence that it had taken disciplinary action against a PSO for lack of candor alone, and to the ALJs failure to find that there was no evidence of Respondent failing to take action against a PSO who had showed a lack of candor in responding to an FPS investigation.
49	21	8-9	To the Administrative Law Judge's failure to find that the PSOs lack of candor in responding to Inspector Dingman's questions and investigation was a legitimate grounds for complying with Inspector Dingman's recommendation that the PSOs be removed from the contract.
50	21	11-15	To the Administrative Law Judge's finding that Respondent failed to establish that it would have taken the actions that it took absent a discriminatory motive.

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
51	21	11-15	To the Administrative Law Judge's finding that Respondent needed to show that similar misconduct was treated in the same manner in order to meet its burden of proof under <u>Wright Line</u> .
52	21	11-15	To the Administrative Law Judge's finding that Respondent was not obligated or without option to follow FPS's request.
53	21	17-18	To the Administrative Law Judge's finding and conclusion that Respondent violated Section 8(a)(3) and (1) of the Act when it discharged Blake, Baker and Holland, and to the ALJs finding that Baker, Blake and Holland were terminated for engaging in concerted protected and union activity.
54	21	27-34	To the Administrative Law Judge's findings and conclusion that Respondent violated Section 8(a)(3) and (1) by discharging Arthur Blake, Joel Baker, and John Holland.
55	21	38-40	To the Administrative Law Judge's recommended remedy ordering Respondent to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.
56	21 -22	41- 7	To the Administrative Law Judge's Order that Respondent offer Blake, Baker, and Holland reinstatement and "make whole" relief as a result of the discharge and that the amounts of such "make whole" relief be computed with interest compounded daily under the cited provisions.
57	22	4-7	To the Administrative Law Judge's Order that Respondent compensate Blake, Baker, and Holland for adverse tax consequences of receiving lump-sum back pay awards, and file a report with the Social Security Administration allocating back pay to the appropriate calendar quarter for each.
58	22	14-24	To the Administrative Law Judge's Order that Respondent cease and desist from discharging or otherwise disciplining employees because they have allegedly engaged in union activity or other activity protected by Section 7 and that Respondent in any like or related manner cease and desist in interfering, restraining, or coercing employees in the exercise of their Section 7 rights.
59	22	25-34	To the Administrative Law Judge's Order that Respondent reinstate Arthur Blake to his former position or a substantially equivalent position in the manner identified by the ALJ with notification to Blake in the manner identified by the ALJ.
60	22	35-37	To the Administrative Law Judge's Order that Respondent make Arthur Blake whole for lost earnings and benefits suffered as a result of his discharge in the manner set forth in the remedy section of the decision.

<u>No.</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
61	22-23	39-2	To the Administrative Law Judge's Order that Respondent reinstate Joel Baker to his former position or a substantially equivalent position in the manner identified by the ALJ and that Respondent notify Joel Baker of the steps that had been taken and that the discipline would not be used in any way against him.
62	23	4-6	To the Administrative Law Judge's Order that Respondent make Joel Baker whole for any loss earnings or other benefits suffered as a result of his discharge in the manner set forth in the remedy section of the decision.
63	23	9-13	To the Administrative Law Judge's Order that Respondent reinstate John Holland to his former position or a substantially equivalent position in the manner identified by the ALJ and that Respondent notify John Holland in writing that the steps have been taken and that the prior discipline would not be used against him in any way.
64	23	15-17	To the Administrative Law Judge's Order that Respondent make John Holland whole for any loss earnings or other benefits suffered as a result of his discharge in the manner set forth in the remedy section of the decision.
65	23	19-24	To the Administrative Law Judge's Order that Respondent preserve and provide various records related to back pay computations as identified in this paragraph of the ALJ's Order.
66	23	26-39	To the Administrative Law Judge's Order that Respondent post the notice set forth in the Appendix of the Decision in the manner required by the ALJ in Paragraph (h) of the Decision.
67	24	1-4	To the Administrative Law Judge's Order that Respondent file a sworn certification within twenty-one (21) days of the service of request for a certification by the Regional Director attesting to the steps Respondent has taken to reply to the Order.
68	App.	App.	To the Administrative Law Judge's recommended "Notice to Employees in its entirety and to each particular aspect of the Notice to Employees".

WHEREFORE, Respondent respectfully requests that the Board reject those portions of the ALJ's Decision to which Respondent has taken exception, and conclude, in accordance with record evidence and relevant decisional authority, that the unfair labor practice charge against Respondent must be dismissed.

Date: March 7, 2014

/s/ Thomas P. Dowd

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*Counsel for Respondent Paragon Systems, Inc.*

**CERTIFICATE OF SERVICE**

I, hereby certify that I served a copy of Respondent's Exceptions to the Administrative Law Judge's Decision was served on the individuals listed below by electronic deliver and by first class mail, postage prepaid on March 7, 2014, addressed as follows:

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/s/ Thomas P. Dowd  
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