

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

KODO CONSTRUCTION, INC.

and

Case 19-CA-159674

**WASHINGTON AND NORTHERN IDAHO
DISTRICT COUNCIL OF LABORERS**

**GENERAL COUNSEL'S MOTION TO TRANSFER CASE TO
THE BOARD FOR DEFAULT JUDGMENT**

Pursuant to §§ 102.24, 102.50 and 102.56 of the amended Rules and Regulations of the National Labor Relations Board (the "Board"), Counsel for General Counsel respectfully moves that the Board: (1) transfer the above-captioned matter and continue the proceedings before the Board; (2) deem the allegations in the Complaint in this matter, issued on December 31, 2015, as admitted to be true without taking substantive evidence supporting the allegations; and (3) issue a Decision and Order granting default judgment. In support of this Motion, the General Counsel submits the following.

1. On September 9, 2015, the Washington and Northern Idaho District Council of Laborers ("Union"), filed an unfair labor practice charge in Case 19-CA-159674 against Kodo Construction, Inc. ("Respondent"), alleging violations of §§ 8(a)(1) and (5) of the National Labor Relations Act, 29 U.S.C. §§ 158(a)(1) and (5). That charge was amended on November 25, 2015. The charge and amended charge (collectively, the "charge") were served on Respondent by regular mail on or about September 10

and November 25, 2015, respectively. Copies of the charge, the amended charge, and the affidavits of service are attached as Exhibits 1(a) through 1(d).

2. Following an investigation of the charge in this matter, the Regional Director for Region 19 issued a Complaint and Notice of Hearing on December 31, 2015 (the "Complaint"), alleging Respondent violated §§ 8(a)(1) and (5) of the Act. On December 31, 2015, the Complaint was served by United States Postal Service, first class mail, on Respondent. Copies of the Complaint and affidavit of service are attached as Exhibits 2(a) and (b), respectively.

3. The Answer to the Complaint was due to be received in the Regional Office on or before January 14, 2016. No Answer was received.

4. The Region subsequently sent a letter to Respondent on January 21, 2016, by United States Postal Service first class mail. This letter notified Respondent that it had failed to submit an Answer in response to the Complaint and the significance of that failure. The letter provided Respondent with additional time until January 28, 2016, to file an Answer. A copy of the January 21, 2016, letter is attached as Exhibit 3.

5. To date, Respondent has failed and/or refused to file an Answer to the Complaint.

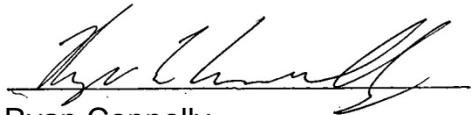
On the basis of the foregoing and the exhibits attached hereto, it is respectfully submitted that the pleadings in the instant case raise no material issues of fact, that Respondent submitted no Answer or defense for the acts alleged in the Complaint, that no hearing is necessary in this matter, and that it is appropriate for the Board to issue a Decision and Order without further proceedings. Thus, it is respectfully

requested that the Board make findings of fact and conclusions of law, finding that the conduct of Respondent violated §§ 8(a)(1) and (5) of the Act as alleged in the attached Complaint.

WHEREFORE, as the remedy for Respondent's unfair labor practices as alleged in the Complaint, the General Counsel further requests that the Board issue the proposed Order and Notice to Employees, which are attached as Exhibits 4(a) and 4(b), respectively, and/or that the Board issue any other order and/or remedy deemed appropriate.

DATED at Seattle, Washington, this 2nd day of February, 2016.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ryan Connolly", written over a horizontal line.

Ryan Connolly
Counsel for General Counsel
National Labor Relations Board
2948 Jackson Federal Building
915 Second Avenue
Seattle, Washington 98174

Case
19-CA-159674

Date Filed
9-9-2015

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Kodo Construction, Inc.

b. Tel. No.

c. Cell No.

f. Fax No.

g. e-Mail

inquiry@kodoconstruction.com

h. Number of workers employed
20

d. Address (Street, city, state, and ZIP code)

P.O. Box 70
Auburn, WA 98071

e. Employer Representative

Amine Ghedamsi

i. Type of Establishment (factory, mine, wholesaler, etc.)
Company

j. Identify principal product or service
Construciton

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) a(5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On August 21, 2015, the Washington an Northern Idaho District Council of Laborers sent via registered mail Kodo Construction an information requested regarding current employees and current job information. To date Kodo Construction has not provided any of the requested information, nor have they provided any timetable by which they will provide any of the requested information.

In August of 2015 Mr. Amine Ghedamsi made statements that he believed that he was no longer bound the Collective Bargaining Agreement and would no longer honor its terms.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Washington and Norther Idaho District Council of Laborers

4a. Address (Street and number, city, state, and ZIP code)

P.O. Box 12917
Mill Creek, WA 98032

4b. Tel. No. 425-741-3556

4c. Cell No.

4d. Fax No. 425-741-2787

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

Laborers' International Union of North America

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.


(signature of representative or person making charge)

David Tuttle Attorney
(Print/type name and title or office, if any)

Tel. No.

206-623-2855

Office, if any, Cell No.

Fax No.

206-667-9805

e-Mail

david.t@stoll-tuttle-law.com

Address 2033 Sixth Ave, Suite 993 Seattle WA 9/9/15 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 74 Fed. Reg. 7482-12 (Feb. 12, 2009). The NLRB will not disclose this information to the public.

Exhibit 1(a)

RECEIVED
HLRB-REGISTRATION

2015 SEP -9 PM 2:15

SEATTLE, WA 98101



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006

Agency Website: www.nlr.gov
Telephone: (206)220-6300
Fax: (206)220-6305



Download
NLRB
Mobile App

September 10, 2015

AMINE GHEDAMSI
KODO CONSTRUCTION, INC.
PO BOX 70
AUBURN, WA 98071-1015

Re: Kodo Construction, Inc.
Case 19-CA-159674

DEAR MR. GHEDAMSI:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by FIELD EXAMINER SARA C. DUNN whose telephone number is (206) 220-6318. If this Board agent is not available, you may contact SUPERVISORY FIELD EXAMINER DIANNE TODD whose telephone number is (206) 220-6319.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent.

Exhibit 1(b)

Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



RONALD K. HOOKS
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION Dunn

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME Kodo Construction, Inc.	CASE NUMBER 19-CA-159674
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

CORPORATION LLC LLP PARTNERSHIP SOLE PROPRIETORSHIP OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
---	---

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7. A. PRINCIPAL LOCATION: B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total: B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): CALENDAR YR 12 MONTHS or FISCAL YR (FY dates)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

YES NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

KODO CONSTRUCTION, INC.

Charged Party

and

**WASHINGTON AND NORTHERN IDAHO
DISTRICT COUNCIL OF LABORERS
INTERNATIONAL UNION OF NORTH
AMERICA**

Charging Party

Case 19-CA-159674

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on September 10, 2015, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

AMINE GHEDAMSI
KODO CONSTRUCTION, INC.
PO BOX 70
AUBURN, WA 98071-1015

September 10, 2015

Date

Dennis Snook, Designated Agent of NLRB

Name

/s/ *Travis Clark*

Signature

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER
AMENDED**DO NOT WRITE IN THIS SPACE**Case
19-CA-159674
Date Filed 9-9-2015
AMD: 11-25-2015**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Kodo Construction, Inc.	b. Tel. No. c. Cell No. f. Fax No.
d. Address (Street, city, state, and ZIP code) P.O. Box 70 Auburn, WA 98071	e. Employer Representative Amine Ghedamsi g. e-Mail inquiry@kodoconstruction.co h. Number of workers employed 20
i. Type of Establishment (factory, mine, wholesaler, etc.) Company	j. Identify principal product or service Construction
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) a(5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Within the past six months, the Employer has violated the Act by: 1. Failing to respond to an information request propounded on August 21, 2015 regarding current employees and current job information; 2. Repudiating its agreement with the Laborers; and 3. Unilaterally ceasing to assign work to known members of the Laborers Union	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Washington and Northern Idaho District of Laborers	
4a. Address (Street and number, city, state, and ZIP code) PO Box 12917 Mill Creek, WA 98032	4b. Tel. No. 425-741-3556 4c. Cell No. 4d. Fax No. 425-741-2787 4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Laborers' International Union of North America	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By  (signature of representative or person making charge)	Danielle Franco-Malone (Print/type name and title or office, if any)
Address 18 West Mercer, Suite 400, Seattle WA 98119	Tel. No. 206-285-6011 Office, if any, Cell No. Fax No. 206-238-4231 e-Mail franco-malone@workerlaw.com
	11/24/15 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Exhibit 1(c)

RECEIVED
ILRB-REGISTRATION

2015 MAR 25 09

SEATTLE, WASH 01



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006

Agency Website: www.nlr.gov
Telephone: (206)220-6300
Fax: (206)220-6305



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November 25, 2015

AMINE GHEDAMSI
KODO CONSTRUCTION, INC.
PO BOX 70
AUBURN, WA 98071-1015

Re: Kodo Construction, Inc.
Case 19-CA-159674

DEAR MR. GHEDAMSI:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by FIELD ATTORNEY RYAN E. CONNOLLY whose telephone number is (206) 220-6324. If the agent is not available, you may contact DEPUTY REGIONAL ATTORNEY BRIAN SWEENEY whose telephone number is (206) 220-6327.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Procedures: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

RONALD K. HOOKS
Regional Director

tc

Enclosure: Copy of first amended charge

Exhibit 1(d)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

KODO CONSTRUCTION, INC.

Charged Party

and

**WASHINGTON AND NORTHERN IDAHO
DISTRICT COUNCIL OF LABORERS
INTERNATIONAL UNION OF NORTH
AMERICA**

Charging Party

Case 19-CA-159674

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on November 25, 2015, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

AMINE GHEDAMSI
KODO CONSTRUCTION, INC.
PO BOX 70
AUBURN, WA 98071-1015

November 25, 2015

Date

Dennis Snook, Designated Agent of NLRB

Name

/s/ Travis Clark

Signature

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

KODO CONSTRUCTION, INC.

and

Case 19-CA-159674

**WASHINGTON AND NORTHERN IDAHO
DISTRICT COUNCIL OF LABORERS**

COMPLAINT AND NOTICE OF HEARING

The Washington and Northern Idaho District Council of Laborers (“Union”), has charged in Case 19-CA-159674 that Kodo Construction, Inc. (“Respondent”) has been engaging in unfair labor practices as set forth in the National Labor Relations Act (the “Act”), 29 U.S.C. § 151, *et seq.* Based thereon, the General Counsel of the National Labor Relations (the “Board”), by the undersigned, pursuant to § 10(b) of the Act and § 102.15 of the Board’s Rules and Regulations, issues this Complaint and Notice of Hearing and alleges as follows.

1.

(a) The charge in this proceeding was filed by the Union on September 9, 2015, and a copy was served on Respondent by U.S. mail on September 10, 2015.

(b) The first amended charge in this proceeding was filed by the Union on November 25, 2015, and a copy was served on Respondent by U.S. mail on or about that date.

Exhibit 2(a)

2.

(a) At all material times, Respondent has been a State of Washington Corporation with an office and place of business in Auburn, Washington (the “facility”), and engaged in the construction industry as a cement contractor.

(b) Respondent, during the past 12 months, which period is representative of all times material, in conducting its business operations described above in paragraph 2(a), had gross revenues valued in excess of \$500,000.

(c) Respondent, during the past 12 months, which period is representative of all times material, in conducting its business operations described above in paragraph 2(a), purchased and received goods at its facility valued in excess of \$50,000 directly from points outside the State of Washington.

(d) At all material times, Respondent has been engaged in commerce within the meaning of §§ 2(2), (6), and (7) of the Act.

3.

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

4.

At all material times, from about July 1, 2014 to the present, Amine Ghedamsi has held the position of Respondent's Owner and President and has been a supervisor of Respondent within the meaning of § 2(11) of the Act and/or an agent of Respondent within the meaning of § 2(13) of the Act, acting on behalf of Respondent.

5.

(a) About June 1, 1983, Respondent, an employer engaged in the building and construction industry, entered into a Laborers Compliance Agreement (the "Compliance Agreement") which, at all material times, bound Respondent to, among other agreements, the Western/Central Washington Master Labor Agreement ("Western/Central Master Agreement") between the Associated General Contractors of Washington (the "Association") and the Union.

(b) By the Compliance Agreement and Western/Central Master Agreement, Respondent agreed to be bound to such future Western/Central Master Agreements unless timely notice was given.

(c) The employees of Respondent identified in the Compliance Agreement (the "Unit" or "Unit employees") constitute a unit appropriate for the purposes of collective bargaining within the meaning of §9(b) of the Act.

(d) By entering into the Compliance Agreement described above in paragraph 5(a), Respondent recognized the Union as the exclusive collective-bargaining representative of the Unit without regard to whether the Union's majority status had ever been established under § 9(a) of the Act. Such recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective by its terms from June 1, 2015, through May 31, 2018.

6.

(a) Since about April 10, 2015, the Union has requested, in writing, that Respondent furnish the information listed in its letter of that date, attached hereto.

(b) The information requested by the Union, as described above in paragraph 6(a) is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(c) Since April 10, 2015, Respondent has failed and/or refused to furnish the Union with the information requested by it as described above in paragraph 6(a).

7.

(a) Since about June 1, 2015, Respondent ceased to assign work to its Unit employees.

(b) Since about June 1, 2015, Respondent ceased to obtain qualified applicants from the applicable local Union office to perform Unit work.

(c) Since about June 1, 2015, Respondent has failed and/or refused to continue in effect the terms and conditions of employment of the Unit contained in the current Western/Central Master Agreement to which it is signatory by failing and/or refusing to make payments to the Western Washington Laborers-Employers Pension Trust.

(d) The terms and conditions of employment described above in paragraphs 7(a)-(c) are mandatory subjects for the purposes of collective bargaining.

(e) Respondent engaged in the conduct described above in paragraphs 7(a)-(c) without providing the Union with notice and/or an opportunity to bargain over such subject matters.

8.

Since about June 16, 2015, Respondent has repudiated its collective bargaining relationship, Compliance Agreement, and the Western/Central Master Agreement with the Union.

9.

By the conduct described above in paragraphs 6, 7 and 8, Respondent has been failing and/or refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of § 8(d) of the Act and in violation of §§ 8(a)(1) and (5) of the Act.

10.

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

WHEREFORE, as part of the remedy for the unfair labor practices alleged above, the General Counsel seeks an order requiring reimbursement of amounts equal to the difference in taxes owed upon receipt of a lump-sum payment or payments and taxes that would have been owed had there been no unlawful conduct.

WHEREFORE, as part of the remedy for the allegations, the General Counsel further seeks that Respondent be required to submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above, the General Counsel seeks an order requiring that the Respondent reimburse

Unit employees for all search-for-work and work-related expenses regardless of whether Unit employees received interim earnings in excess of these expenses, or at all, during any given quarter, or during the overall backpay period.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above, the General Counsel seeks an Order making whole the Western Washington Laborers-Employers Pension Trust on behalf of affected employees and granting all relief as may be just and proper to remedy all the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to §§ 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before January 14, 2016, or postmarked on or before January 13, 2016.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an

answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **19th day of April, 2016**, at 9 a.m. in the James C. Sand Hearing Room of the Jackson Federal Building, 915 Second Avenue, Seattle, Washington, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. 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 Seattle, Washington, this 31st day of December, 2015.

A handwritten signature in black ink that reads "Ronald K. Hooks". The signature is written in a cursive style with a horizontal line underneath it.

Ronald K. Hooks, Regional Director
National Labor Relations Board, Region 19
915 2nd Ave., Ste. 2948
Seattle, WA 98174-1006

Attachments

STOLL TUTTLE

A PROFESSIONAL LIMITED LIABILITY COMPANY
2033 Sixth Avenue – Suite 993
Seattle, WA 98121-2527

Telephone 206-623-2855 – Fax 206-667-9805 – Email davidt@mlstoll-law.com

MARY L. STOLL

DAVID L. TUTTLE

April 10, 2015

Kodo Construction
P.O. Box 1018
Auburn, WA 98071

Re: Washington and Northern Idaho District Council of Laborers Information Request

Mr. Ghedamsi,

This office represents the Washington and Northern Idaho District Council of Laborers. It has come to our attention that you are employing individuals, but are not paying them the correct wage and benefit package. Therefore, please identify the following:

1. The total number of projects that your company is working on
2. The name, address, and total number of employees performing work under Article 2 of the Western/Central Washington Master Labor Agreement for each project
3. The name, address, and contact information for the General Contractor for each project.
4. The name, address, and contact information for each employee

I would appreciate receiving this information within the next ten business days. If you have any questions please feel free to contact me.

STOLL TUTTLE, PLLC

David L. Tuttle

DT; bmk

Attachment 1

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 19-CA-159674

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 Regional Director, 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 Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (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.

CERTIFIED MAIL
7014 2120 0002 1823 0601

Amine Ghedamsi
Kodo Construction, Inc.
PO Box 70
Auburn, WA 98071-1015

REGULAR MAIL

Danielle Franco-Malone, Attorney
Schwerin Campbell Barnard
Iglitzin & Lavitt LLP
18 W Mercer St., Ste. 400
Seattle, WA 98119-3971

Jermaine Smiley, Assistant Business Manager
Washington and Northern Idaho District
Council of Laborers
PO Box 12917
Mill Creek, WA 98082-0917

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court 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 ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are 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. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting 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 provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

KODO CONSTRUCTION, INC.

and

**WASHINGTON AND NORTHERN IDAHO
DISTRICT COUNCIL OF LABORERS**

Case 19-CA-159674

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4668 and NLRB-4338 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on December 31, 2015, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

**CERTIFIED MAIL
7014 2120 0002 1823 0601**

Amine Ghedamsi
Kodo Construction, Inc.
PO Box 70
Auburn, WA 98071-1015

REGULAR MAIL

Danielle Franco-Malone, Attorney
Schwerin Campbell Barnard
Iglitzin & Lavitt LLP
18 W Mercer St., Ste. 400
Seattle, WA 98119-3971

Jermaine Smiley, Assistant Business Manager
Washington and Northern Idaho District
Council of Laborers
PO Box 12917
Mill Creek, WA 98082-0917

December 31, 2015

Date

Kristy Kennedy
Designated Agent of NLRB

Name

/s/ Kristy Kennedy

Signature

Exhibit 2(b)



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006

Agency Website: www.nlrb.gov
Telephone: (206)220-6300
Fax: (206)220-6305

Agent's Direct Dial: (206)220-6324

January 21, 2016

AMINE GHEDAMSI
KODO CONSTRUCTION, INC.
PO BOX 70
AUBURN, WA 98071-1015

Re: Kodo Construction, Inc.
Case 19-CA-159674

Dear Mr. Ghedamsi:

The Complaint for the above-referenced case issued on December 31, 2015, and your Answer was due on January 13, 2016. To date, we have not received your Answer to the Complaint. Please file your Answer by the close of business on Thursday, January 28, 2016. If you fail to file an Answer that meets the Board's requirements by the deadline, we will have no choice but to file a Motion for Default Judgment.

If you have any questions, please do not hesitate to contact me at (206) 220-6324.

Very truly yours,

RYAN E. CONNOLLY
Field Attorney

Exhibit 3

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby ORDERS that Respondent Kodo Construction, Inc., its officers, agents, successors, and assigns, shall:

1. Cease and Desist from:

- (a) Failing and refusing to bargain collectively in good faith with Washington and Northern Idaho District Council of Laborers (“the Union”), regarding the wages, hours, and other working conditions of the employees in the bargaining unit (“Unit”) identified in the Western/Central Washington Master Labor Agreement between the Associated General Contractors of Washington and the Union;
- (b) Failing and refusing to apply the terms and conditions of employment identified in the Western/Central Washington Master Labor Agreement;
- (c) Failing and refusing to assign work to Unit employees;
- (d) Failing and refusing to obtain qualified applicants from applicable Union offices;
- (e) Failing and refusing to provide the Union with information that is relevant and necessary to its role as collective bargaining representative of the Unit;
- (f) Failing and refusing to provide the Union with the information it requested on April 10, 2015; and
- (g) In any like or related manner interfering with, retraining, or coercing employees in the exercise of the rights guaranteed by Section 7 of the Act.

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

- (a) Apply the terms and conditions of employment identified in the Western/Central Washington Master Labor Agreement;
- (b) Assign work to Unit employees;
- (c) Obtain qualified applicants from applicable Union offices;
- (d) Pay Unit employees for the wages and other benefits lost because of changes to terms and conditions of employment that were made without bargaining with the Union;
- (e) Reimburse Unit employees for an amount equal to the difference in taxes owed upon receipt of a lump-sum payment or payments and

taxes that would have been owed had there been no unlawful conduct;

- (f) Submit appropriate documentation to the Social Security Administration so that when any backpay is paid to any Unit employee, it will be allocated to the appropriate periods;
- (g) Reimburse Unit employees for all search-for-work and work-related expenses regardless of whether the employees received interim earnings in excess of these expenses, or at all, during any given quarter, or during the overall backpay period;
- (h) Make whole the Western Washington Laborers-Employers Pension Trust on behalf of affected Unit employees and granting all relief as may be just and proper to remedy all the unfair labor practices alleged;
- (i) Provide the Union with the information it requested on April 10, 2015;
- (j) Preserve and, within 14 days of a request, or such additional time as the Regional Director of Region 19 of the Board may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of the records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order; and
- (k) Within 14 days after service by the Region, mail copies, at Respondent's expense, of the attached notice marked "Appendix" to the last known address of each employee employed in the Unit since July 1, 2014; and similarly mail a copy a copy of the notice to the Union at its business address. Copies of the Notice, on forms provided by the Regional Director for Region 19, shall be mailed after signed by the Respondent's authorized representative.

NOTICE

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

The Washington and Northern Idaho District Council of Laborers, the Laborers, is the employees' representative in dealing with us regarding wages, hours and other working conditions of the employees in the identified in the Western/Central Washington Master Labor Agreement between the Associated General Contractors of Washington and the Union.

WE WILL NOT refuse to bargain in good faith with the Laborers as the exclusive collective-bargaining representative of our employees in the appropriate unit identified in the Western/Central Washington Master Labor Agreement between the Associated General Contractors of Washington and the Laborers.

WE WILL, upon request, bargain in good faith with the Laborers as the exclusive collective-bargain representative of our unit employees.

WE WILL NOT refuse to meet and discuss in good faith with your Union any proposed changes in wages, hours and working conditions before putting such changes into effect.

WE WILL apply the terms and conditions of employment identified in the Western/Central Washington Master Labor Agreement

WE WILL pay employees for the wages and other benefits lost because of the changes to terms and conditions of employment that we made without bargaining with the Union.

WE WILL NOT refuse to provide the Union with information that is relevant and necessary to its role as your bargaining representative.

WE WILL provide the Union with the information it requested on April 10, 2015.

WE WILL NOT in any manner interfere with your rights under Section 7 of the Act.

Kodo Construction, Inc.

(Employer)

Dated: _____

By: _____

(Representative)

(Title)

Certificate of Service

I hereby certify that a copy of Counsel for the General Counsel's Motion to Transfer Case to the Board for Default Judgment was served on the 2nd day of February, 2016, on the following parties:

E-file:

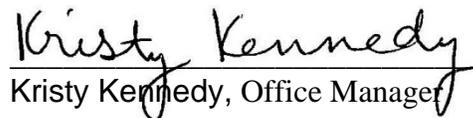
Gary Shinnars, Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington, D.C. 20570

E-mail and Mail:

Amine Ghedamsi
Kodo Construction, Inc.
PO Box 70
Auburn, WA 98071-1015
inquiry@kodoconstruction.com

Danielle Franco-Malone, Attorney
Schwerin Campbell Barnard Iglitzin &
Lavitt LLP
18 W Mercer St., Ste. 400
Seattle, WA 98119-3971
franco@workerlaw.com

Jermaine Smiley, Assistant Business Manager
Washington and Northern Idaho District
Council of Laborers
PO Box 12917
Mill Creek, WA 98082-0917
jsmiley@nwlaborers.org



Kristy Kennedy, Office Manager