

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 8**

BFG FEDERAL CREDIT UNION,	)	CASE NOS. 08-CA-151936
	)	08-CA-155492
	)	08-CA-155464
and	)	08-CA-157897
	)	08-CA-161543
	)	
THE OFFICE AND PROFESSIONAL	)	
EMPLOYEE INTERNATIONAL UNION,	)	
LOCAL 1784	)	

**RESPONDENT’S REPLY IN SUPPORT OF ITS EMERGENCY MOTION TO  
RESCHEDULE HEARING**

Pursuant to NLRB Rules and Regulations §§ 102.16(b) and 102.24, BFG Federal Credit Union (“BFG” or “Respondent”), the Respondent herein, respectfully submits this reply brief (“Reply”) in support of its request that the hearing presently set for August 22, 2016 be rescheduled. BFG reiterates that sufficient grounds exist for the requested postponement because additional time is required to *fully* explore the possibility of settlement.

The impediment to settling this case arises from the fact that the General Counsel is unable to assess Respondent’s inability to pay claim. The General Counsel has admitted as much repeatedly and reiterated this position both during the parties’ settlement call and during a status call with Judge Carissimi yesterday. Thus, the General Counsel’s assertion that there is no need to assess Respondent’s inability to pay claim because the parties are far from settling this case is wholly inaccurate. The parties remain far from settling this case *because* of the General Counsel’s admitted inability to assess Respondent’s submitted financial information. Once an assessment is done, Respondent remains confident that the General Counsel will find its inability to pay claim to be meritorious, which will allow the parties to move much closer to settling on a number to settle the back pay claims.

At the outset of negotiations, the parties both *agreed* not to engage in settlement discussions regarding the affirmative non-monetary provisions of the proffered settlement agreement until they could get closer to a settlement number to resolve the back pay claims. Thus, the General Counsel's accusation that Respondent has not even made a counterproposal on these aspects of a settlement agreement is entirely disingenuous because the parties recognized from the start of the settlement negotiations that the issue of back pay must be dealt with first. The compliance officer did not ask any questions on yesterday's call aside from inquiring into whether Respondent had insurance, to which Mr. Baisden explained that he was pretty certain they did not, but if they did, he would let the General Counsel know. Rather, the compliance officer explained that she did not understand the numbers related to the sale of real property or the application of its proceeds, and she also did not understand how credit union financials were calculated. Therefore, the compliance officer went on to explain that there would be a need for additional information to assess any inability to pay claim, including a two-day deposition and the answers to a detailed twenty-six part questionnaire. Further, Mr. Baisden did indeed make a counterproposal related to Respondent's decision to freeze the pension, but the General Counsel was unhappy with this counterproposal because it only dealt with the claimants rather than the entire bargaining unit. This pension counterproposal was structured in this manner, *again*, because Respondent's settlement proposals are dependent on its inability to pay claim.

Good cause exists to postpone the hearing for a mere three weeks so that the General Counsel can confirm BFG's inability to pay claim in order for fruitful settlement negotiations to then proceed upon such confirmation. This requested relief is in the interests of conserving the parties' and the Board's time and resources and justice would be served by the granting of

Respondent's Motion. BFG respectfully requests that the hearing be re-scheduled to begin no earlier than September 13, 2016.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

This Reply in Support of its Emergency Motion to Reschedule Hearing was electronically filed with the Chief Administrative Law Judge. Copies of the foregoing were sent by first class U.S. mail on this 16th day of August, 2016 to the following in accordance with Form NLRB-4338:

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