

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

AWP, INC.

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION 978

Cases 06-CA-252223
06-CA-253068
06-CA-253078

ORDER CONSOLIDATING CASES,
CONSOLIDATED COMPLAINT,
AND
NOTICE OF HEARING

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 06-CA-252223, 06-CA-253068 and 06-CA-253078, which are based on charges filed by International Brotherhood of Electrical Workers, Local Union 978 (Union) against AWP, Inc. (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1. (a) The charge in Case 06-CA-252223 was filed by the Union on November 21, 2019, and a copy was served on Respondent by U.S. mail on November 22, 2019.

(b) The first amended charge in Case 06-CA-252223 was filed by the Union on April 30, 2020, and a copy was served on Respondent by U.S. mail on May 1, 2020.

(c) The charge in Case 06-CA-253068 was filed by the Union on December 9, 2019, and a copy was served on Respondent by U.S. mail on December 10, 2019.

(d) The first amended charge in Case 06-CA-253068 was filed by the Union on May 7, 2020, and a copy was served on Respondent by U.S. mail on May 11, 2020.

(e) The charge in Case 06-CA-253078 was filed by the Union on December 9, 2019, and a copy was served on Respondent by U.S. mail on December 10, 2019.

2. (a) At all material times, Respondent has been an Ohio corporation with an office and place of business in Mineral Wells, West Virginia (Respondent's facility), and has been engaged in the business of providing traffic control services.

(b) In conducting its operations described above in paragraph 2(a) during the 12-month period ending May 1, 2020, Respondent performed services valued in excess of \$50,000 in States other than the State of West Virginia.

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

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

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

James Patton - Regional Manager
Natasha Cooper - Facility Manager
Debbie Riazzi - Director of Employee Relations

5. About October 15, 2019, Respondent, by James Patton, at the Wingate Hotel in Vienna, West Virginia:

(a) impliedly threatened employees that unionizing would be futile by telling employees if they voted a union in, they would not get a raise, they would continue to earn \$10 an hour, and they would not be able to contribute to Respondent's retirement plan.

(b) impliedly threatened employees that unionizing would be futile by telling employees that Respondent's unionized employees at other locations make less than Respondent's West Virginia employees.

(c) impliedly threatened employees that unionizing would be futile by telling employees that a union could not affect Respondent's discipline or discharge decisions.

(d) solicited employees' grievances and promised to remedy those grievances.

(e) threatened employees that employee Mike Mosteller was discharged, in part, for his union activity in attempting to organize a union at Respondent.

(f) threatened employees that certain employees were discharged by Respondent because they signed statements for the Union that contained false information.

(g) coercively offered more than ministerial assistance to employees by offering to help revoke their signed union authorization cards by discussing revocation with them and providing and offering them the use of his internet accessible tablet to revoke their cards.

(h) coerced employees by asking employees if they signed union authorization cards and if they wished to revoke their authorizations.

6. About October 16, 2019, Respondent, by James Patton, at the Delta Hotel in Barboursville, West Virginia:

(a) impliedly threatened employees that unionizing would be futile by telling employees if they voted a union in, they would not get a raise, they would continue to earn \$10 an hour, and they would not be able to contribute to Respondent's retirement plan.

(b) impliedly threatened employees that unionizing would be futile because Respondent's unionized employees at other locations make less than Respondent's West Virginia employees.

(c) impliedly threatened employees that unionizing would be futile by telling employees that a union could not affect Respondent's discipline or discharge decisions.

(d) solicited employees' grievances and promised to remedy those grievances.

(e) impliedly threatened employees that unionizing would be futile by stating that if the Union was selected to represent employees and Respondent needed to pay more, clients would not use Respondent and, as a result, Respondent would not have work for employees.

7. (a) About October 10, 2019, Respondent discharged its employee Mike Mosteller.

(b) About October 21, 2019, Respondent discharged its employee Steven Jolley.

(c) About November 25, 2019, Respondent discharged its employee Sam McDonald.

(d) About November 25, 2019, Respondent discharged its employee Candice Adkins.

(e) About December 4, 2019, Respondent discharged its employee Michelle French.

(f) Respondent engaged in the conduct described above in paragraphs 7(a) through (e), because the named employees of Respondent formed, joined, and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

8. By the conduct described above in paragraphs 5 and 6, Respondent has been interfering with, restraining, and coercing employees in the exercise of their rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act

9. By the conduct described above in paragraph 7, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby

discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

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

As part of the remedy for the unfair labor practices alleged above in paragraphs 5, 6, 7, 8, 9, and 10, the General Counsel seeks an Order requiring that, at a meeting or meetings scheduled to ensure the widest possible attendance, Respondent's representative, James Patton or Debbie Riazzi, read the notice to the employees in English on worktime in the presence of a Board agent and a representative of the Union. Alternatively, the General Counsel seeks an order requiring that Respondent promptly have a Board agent read the notice to employees during worktime in the presence of Respondent's supervisors and agents identified above in this paragraph.

The General Counsel further seeks, as part of the remedy for the above allegations in paragraphs 7(a) through (e), that Respondent be required to submit to the Acting Regional Director the W-2s reflecting backpay paid to the discriminatees .

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. The answer must be **received by this office on or before June 1, 2020.** Respondent also must serve a copy of the answer on each of the other parties.

The answer must 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. 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 consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on a date, time and place to be hereinafter scheduled, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated complaint. 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: May 18, 2020

/s/ Matthew T. Denholm

Matthew T. Denholm, Acting Regional Director
Region 9, National Labor Relations Board
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Cincinnati, OH 45202-3271

Attachments