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

In the Matter of

VOITH INDUSTRIAL SERVICES, INC.

and

Case 9-CA-097589

GENERAL DRIVERS, WAREHOUSEMEN & HELPERS, LOCAL UNION NO. 89, AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by General Drivers, Warehousemen & Helpers, Local Union No. 89, affiliated with the International Brotherhood of Teamsters (Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Voith Industrial Services, Inc., (Respondent) has violated the Act as described below:

1. The charge was filed by the Union on February 4, 2013, and a copy was served by regular mail on Respondent on the same date.

2. (a) At all material times, Respondent, has been a corporation with an office and place of business in Louisville, Kentucky and has been engaged in the business of cleaning and providing transportation and logistical services to customers in the automobile manufacturing industry.

(b) During the past 12 months, Respondent, in conducting its operations described above in paragraph 2(a), purchased and received at its Louisville, Kentucky facility goods valued in excess of $50,000 directly from points outside the Commonwealth of Kentucky.

(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. (a) On or about February 13 and March 1, 2012, Respondent entered into agreements with Ford Motor Company, herein called Ford, to provide vehicle staging, shuttle and yard/inventory management services for Ford. These services had been previously performed by Auto Handling, Inc., a wholly-owned subsidiary of Jack Cooper Transport Company, herein called Cooper Transport.

(b) Since about April 9, 2012, Respondent has operated the prior business of Cooper Transport described above in paragraph 3(a) in basically unchanged form.

(c) By virtue of the operations and conduct described above in paragraphs 3(a) and (b), Respondent has continued the employing entity and is a successor to Cooper Transport.

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

5. At all material times, the following individuals have 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 agents of Respondent within the meaning of Section 2(13) of the Act:

Brett Griffin	-	Regional Manager
Jason Wilson	-	Supervisor
Elizabeth Dawson	-	Supervisor
Tom Baker	-	Supervisor
Laura Kitchen	-	Supervisor

6. Beginning in August 2012 through December 2012, the more precise dates being presently unknown to the Acting General Counsel, Respondent's employees Patti Murphy and Kelly Stein, engaged in concerted activities, concertedly complained to Respondent regarding

the working conditions of Respondent's employees by complaining about safety, specifically about Respondent's instruction to employees to load rail cars in the dark.

7. (a) About December 21, 2012, Respondent issued written disciplinary actions to its employees Kelly Stein and Patti Murphy.

(b) About January 4, 2013, Respondent discharged its employees Kelly Stein and Patti Murphy.

(c) Respondent engaged in the conduct described above in paragraphs 7(a) and (b), because Stein and Murphy engaged in the conduct described above in paragraph 6, and to discourage employees from engaging in these or other concerted activities.

(d) Respondent engaged in the conduct described above in paragraphs 7(a) and (b) because Stein, an employee of Respondent, joined and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

(e) Respondent engaged in the conduct described above in paragraphs 7(a) and (b) because Murphy, an employee of Respondent, joined and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

(f) Respondent engaged in the conduct described above in paragraphs 7(a) and (b) because Stein testified at a Board hearing in Case 9-CA-075496, et al.

(g) Respondent engaged in the conduct described above in paragraphs 7(a) and (b) because Murphy testified at a Board hearing in Case 9-CA-075496, et al.

8. The employees of Respondent, as set forth in Article 3 of the National Master Automobile Transporters Agreement, Central and Southern Area Supplemental Agreements and the Job Descriptions provisions of the Local Rider, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

9. (a) Since about 1952 and at all material times, the Union had been the designated exclusive collective-bargaining representative of the Unit and, during that time, the Union had been recognized as the representative by Cooper Transport and its predecessors. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective June 1, 2011 to August 31, 2015.

(b) At all times from 1952 to February 16, 2012, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit described above in paragraph 8.

(c) At all material times since about February 17, 2012, based on the conduct described above in paragraphs 3 and 9(a) and (b), the Union has been the exclusive collective-bargaining representative of Respondent's employees in the Unit.

10. (a) Since about August 2012, Respondent has required its employees to load rail cars in the dark and subjected them to newly implemented attendance and disciplinary policies.

(b) The subjects set forth above in paragraph 10(a), relates to wages, hours and other terms and conditions of employment of the Unit and are mandatory subjects for the purpose of collective bargaining.

(c) Respondent engaged in the conduct described above in paragraph 10(a), without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct and the effects of this conduct.

11. By the conduct described above in paragraphs 7(a) and (b), 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.

12. By the conduct described above in paragraphs 7(a) and (b), 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)(l) and (3) of the Act.

13. By the conduct described above in paragraphs 7(a) and (b), Respondent has been discriminating against employees for filing charges or giving testimony under the Act in violation of Section 8(1)(1) and (4) of the Act.

14. By the conduct described above in paragraph 10, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(l) and (5) of the Act.

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

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraphs 7, 10, 11, 12, 13 and 14, the Acting General Counsel seeks an Order requiring reimbursement of amounts equal to the differences in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no unfair practices, and 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.

Further, as a remedy for the unfair labor practices alleged herein, the Acting General Counsel seeks and Order requiring Respondent to hold a meeting or meetings, scheduled to ensure the widest possible attendance at which the Board's Notice is to be read to employees by a responsible management official of Respondent, or at Respondent's option, by a Board agent in that official's presence. Also, Respondent shall be required to allow a representative of the Union to be present during such reading or readings of the Notice.

Finally the remedy for the unfair labor practices alleged above in paragraphs 7, 10, 11, 12, 13 and 14, the Acting General Counsel seeks an order requiring Respondent to restore the

terms and conditions of employment of its employees to those in effect under the collective-bargaining agreement, described above in paragraph 8.

Further, the Acting General Counsel seeks an Order requiring Respondent to, at the request of the Union, rescind any adverse activity taken against Unit employees because of the unilateral action alleged above in paragraph 10.

Lastly, the Acting General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

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 complaint. The answer must be **received by this office on or before April 29, 2013, or postmarked on or before April 28, 2013.** 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.nlrb.gov, click on* ***File Case 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 **June 18, 2013**, **9 a.m.** at **a place to be hereinafter scheduled in Louisville, Kentucky**, 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 Cincinnati, Ohio this 15th day of April 2013.

Gary W. Muffley, Regional Director
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

Attachments

FORM NLRB-4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 9-CA-097589

The issuance of this 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 the 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.

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* *

National Labor Relations Board
Washington, D.C. 20570

FORM NLRB-4668
(4-05)

(C CASES)

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

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

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

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

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

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

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

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

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

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

(OVER)

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8 1/2 by 11 inch paper.

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

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

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

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

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