

LAW OFFICES OF
GREGORY, MOORE, JEAKLE & BROOKS, P.C.

THE CADILLAC TOWER
65 CADILLAC SQUARE - SUITE 3727
DETROIT, MICHIGAN 48226-2893
TELEPHONE (313) 964-5600
FAX (313) 964-2125

GORDON A. GREGORY
JAMES M. MOORE
SCOTT A. BROOKS
EMILIE D. ROTHGERY

W. GLEN JEAKLE II
RETIRED

MARK L. HEINEN
OF COUNSEL

RACHEL N. HELTON
OF COUNSEL



October 24, 2011

Steven J. Sorenson, Resident Officer
National Labor Relations Board
Region 21
888 South Figueroa Street, Ninth Floor
Los Angeles, CA 90017-5499

**Re: International Union, Security, Police and Fire Professionals
of America (SPFPA) (Transit Security Systems)
Case 21-CA-066878**

Dear Mr. Sorenson,

In follow up to your letter of October 19, 2011, requesting additional information to assist the Region in investigating the charges, please allow this letter to clarify the events at issue and the witnesses who will be presented. Due to the brief window given to obtain the requested information, be advised that the witnesses themselves will be able to provide a more detailed account than that produced below.

As you know the International Union, Security, Police and Fire Professionals of America ("SPFPA"), and its Local 245 ("Union") allege four violations: (1) unilaterally changing dates for contract negotiation meetings, and otherwise refusing and failing to meet in a timely manner for collective bargaining; (2) insisting that permissive subjects, such as assumption of client service contracts, be bargained; (3) unilaterally withdrawing agreed upon contract provisions; and (4) threatening employees with discipline or discharge if they engage in handbilling, informational picketing and other protected concerted activities, among other things.¹ Below is a description detailing the chronology of events, including descriptions, with dates and names of persons involved, of the Employer's conduct which violated the Act. Please consider the chronologies provided as summaries to what the identified witnesses would be willing to testify.

First, Mike Hough, a District Director for the Union, and Guy Thomas, a District Director for the Union, have been attempting to negotiate a collective bargaining agreement ("Contract") with Transit Security Systems ("Employer"), on behalf of members of Local 245. They will testify to the following, regarding the first charge:

¹ The charge was amended on October 24, 2011 incorporating the fourth charge.

- The parties had successfully engaged in bargaining over several issues, until July, 2011, when the Employer's attorney, Alexis Gutierrez, became unresponsive and failed to respond to requests for dates to return to the bargaining table.²
- In early August of 2011, Mr. Hough contacted Larry Richman, the Employer's Representative, why Mr. Gutierrez had been unresponsive.
- Mr. Gutierrez responded on August 9, 2011, 5:25 pm, that he had not been contacted or received any communications from the Union to re-schedule contract negotiations, and requested dates at the end of August through September to resume talks.³
- On August 14, 2011, 2:55 pm, Mr. Gutierrez requested from Mr. Hough a range of dates for the end of August through September to schedule continued contract negotiations.
- On August 23, 2011, 9:59 am, Mr. Hough responded with the dates September 19, 20, and 21.
- On August 24, 2011, 11:21 am, Mr. Gutierrez confirmed September 19th, and recommended follow up dates October 2, 11-12 or 31.
- On August 24, 2011, 11:27 am, Mr. Hough responded "please coordinate with the Union Negotiator, Guy Thomas. I don't believe that the Union is willing to entertain split days. That is both counter-productive and another way to stall."
- On August 24, 2011, 11:31 am, Mr. Gutierrez queried whether any of the dates worked so that a room could reserved, suggesting that any opposition to the split days should be put on hold.
- On August 24, 2011, 11:33 am, Mr. Hough responded that September 19, 20, and 21 were acceptable and suggested that the Union might entertain consecutive days on September 19 and 20.
- On August 24, 2011, 11:38 am, Mr. Gutierrez confirmed September 19, but suggested that there were conflicts on the 20th and 21st.
- On August 24, 2011, at 11:39 am, Mr. Hough responded that it had to be two consecutive days.
- On August 24, 2011, at 11:41 am, Mr. Gutierrez proposed October 11 and 12.
- On September 6, 2011, at 11:17 am, Mr. Hough confirmed the dates October 11 and 12.
- On October 5, 2011, at 12:39 pm, Mr. Gutierrez informed the parties that he was leaving for London on the October 12th and wanted to reschedule to October 10 and 11.

As can be seen within the above timeline, Mr. Gutierrez has delayed the negotiations, unilaterally changed the dates for meeting with only a weeks notice, and has attempted to schedule single days of bargaining, even though the Union has consistently requested two day sessions, to stall negotiations.

Second, Mike Hough and Guy Thomas have information regarding the second charge. The employer has made numerous attempts to include references in the Contract that would bind the parties to the requirements of the contract between the Employer and it's Client, the Metropolitan Transit Systems San Diego, without recourse to bargaining. On April 1, 2011, the Union, during negotiations identified the inclusion of language binding the Union to the terms of the Client's contract as permissive subjects, refused to bargain on these subjects, and rejected the language within the Contract. On October 11, 2011, the Employer attempted to insert language

² The following timeline is derived from a series of emails between Mr. Hough and Mr. Gutierrez.

³ Mr. Hough has evidence indicating that Mr. Gutierrez was contacted.

to the same effect within the Contract. The Union again reiterated its refusal to bargain over the issue, and the parties agreed to remove this language. However, Mr. Gutierrez, on October 12, 2011, sent Mr. Hough and Mr. Thomas a proposed revision to the Recognition Clause, Article 2, with language binding the Union to the Client's contract with the Employer. This is clearly an attempt by the Employer to bargain to impasse on a permissive subject of bargaining, which is a violation of the Act.

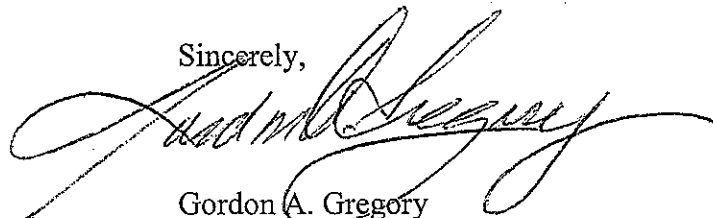
Third, Mike Hough and Guy Thomas have information regarding the third charge. This charge relates to the second charge, in which the Employer continues to attempt to bargain to impasse on a permissive subject of bargaining. In a bargaining session on October 11, 2011, the Employer and Union agreed to strike language within the Recognition Clause, Article 2, that would bind the parties to the requirements of the Client's contract without recourse to bargaining. However, on October 12, 2011, Mr. Hough and Mr. Thomas received a proposed revision to the Recognition Clause from Mr. Gutierrez, which unilaterally reinserted the language the parties had agreed to exclude from the Contract.

Lastly, Mike Hough has information regarding the fourth charge. Mr. Hough was contacted by members on October 21, 2011, that the Employer's agent, Sergeant Espinosa, was informing employees that any picketers would be disciplined or discharged on the spot if they touched the Client's property during the Union's scheduled handbilling and picketing of the Employer. Moreover, Sergeant Espinosa also indicated that the picketing would be recorded and given to the Client so that the Client could terminate employees who engaged in this concerted activity. The Sergeant's statements were meant to coerce and persuade members not to engage in lawful concerted activity, which is a violation of the Act.

The Union's principal witnesses are Mike Hough and Guy Thomas. Please contact Mike Hough at (858) 886-6655, and Guy Thomas at (815) 546-8951 directly to schedule witness statements of affidavit. Also, please provide the witnesses with a copy of their respective affidavits. I waive the right to be present. Be advised I will provide a formal statement of position shortly reflecting the Union's view regarding the propriety of relief under Section 10(j), under the standards set forth in *Frankly v. HTH Corp.*, 650 F.3d 1334 (9th Cir. 2011), and *Miller v. California Pacific Medical Center*, 19 F.3d 449 (9th Cir. 1994).

Thank you for your assistance.

Sincerely,



Gordon A. Gregory
General Counsel
International Union, SPFPA

cc: D. Hickey
D. Eagle
M. Hough
G. Thomas