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

THE BOEING COMPANY

and Case 19-CA-093656

SOCIETY OF PROFESSIONAL ENGINEERING EMPLOYEES IN AEROSPACE, affiliated with INTERNATIONAL FEDERATION OF PROFESSIONAL & TECHNICAL ENGINEERS, LOCAL 2001

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed against the Boeing Company (Respondent or Boeing) by the Society of Professional Engineering Employees in Aerospace, affiliated with the International Federal of Professional & Technical Engineers, Local 2001 (the Union). It is issued pursuant to § 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 *et seq.*, and § 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that the Boeing Company has violated the Act as described below:

1.

The charge in this proceeding was filed by the Union on November 23, 2012, and a copy was served by regular mail on Respondent on about that date.

2.

(a) Respondent, a State of Delaware corporation with its headquarters in Chicago, Illinois, manufactures and produces military and commercial aircraft at various

facilities throughout the United States, including Everett, Washington (facility), and others in the Seattle, Washington, and Portland, Oregon, metropolitan areas.

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

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

(d) Respondent has been at all material times an employer 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.

(a) 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 § 2(11) of the Act and agents of Respondent within the meaning of § 2(13) of the Act:

Mark Brenaman	-	Employee and Union Relations Representative
Dave Demars	-	Avionics Manager
Joe McPherson	-	Avionics Manager

(b) At all material times, Beth Thompson held the position of Respondent's Human Resources Representative and has been an agent of Respondent within the meaning of § 2(13) of the Act.

5.

(a) The following employees of Respondent (the Professional Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of § 9(b) of the Act:

> Professional employees, including but not limited to those working at the Employer's facilities in the State of Washington, as set forth in Appendix B of the Collective Bargaining Agreement for the Professional Bargaining Units.

(b) At all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Professional Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from October 7, 2012, to October 6, 2016.

(c) The following employees of Respondent (the Technical Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of § 9(b) of the Act:

> Technical employees, including but not limited to those working at the Employer's facilities in the State of Washington, as set forth in Appendix B of the Collective Bargaining Agreement for the Technical Bargaining Units.

(d) At all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Technical Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from October 7, 2012, to October 6, 2016.

(e) At all times, based on § 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Professional Unit and the Technical Unit.

6.

About November 15, 2012, Respondent, by Demars, McPherson, and/or Thompson, at the facility, threatened employees with discipline if they communicated with each other about potential layoffs.

7.

(a) Since about September 11, 2012, the Union has requested, in writing, that Respondent furnish the Union with the following information regarding the Professional Unit:

(i) "For each of the past three fiscal years for the Puget Sound area, St. Louis, MO, Philadelphia, PA, Houston, TX, San Antonio, TX, Huntsville, AL, Charleston, SC, and any other Boeing location where engineers and technical employees perform work similar to that performed by members of the SPEEA bargaining units in Puget Sound:"

(a) "Detailed calculations and explanations of how Boeing calculates productivity at each of these locations, including a line by line item breakout of total engineering labor costs at each location including benefits and any other costs allocated as engineering labor costs."

(b) "Detailed calculations and explanations of how Boeing calculates engineering costs per unit of production (including specifically defining the unit of production)."

(c) "A detailed line by line summary of engineering overhead for each location."

(ii) With regard to the statement that "Boeing is willing to pay a 'premium' to do engineering in Seattle and the Puget Sound area[:]"

(a) "What is the current 'premium' paid to the engineering employees, if any?"

(b) "A detailed explanation of how that 'premium' is calculated, the data supporting that calculation and the data from [St. Louis, MO, Philadelphia, PA, Houston, TX, San Antonio, TX, Huntsville, AL, Charleston, SC, and any other Boeing location where engineers and technical employees perform work similar to that performed by members of the SPEEA bargaining units in Puget Sound…] showing how they do not pay such a 'premium.'"

(iii) "All information available or known to [Respondent] about projected changes in engineering costs for competitors over the next three years."

(iv) "A detailed statement of exactly how the 'premium' [Respondent] claim[s] that no customer would pay is calculated and all information available or known to [Respondent that] support such a statement."

(v) With regard to the statement that "Boeing cannot sustain the rate of growth outlined in the previous contract:"

(a) "All data, including all assumptions and analyses used to make this determination."

(b) "A projected date for when growth rate becomes unsustainable, including all data, assumptions, and analyses used to make this determination."

(b) Since about September 20, 2012, the Union has requested, in writing, that Respondent furnish the Union with the following information for both the Professional and Technical Units, for the four years prior to September 20, 2012:

(i) "Amounts paid by Boeing to outside entities of any kind for persons who perform bargaining unit work. Data should be broken down to indicate the number of engineers, the type of engineers and the time period they have worked each year. The same breakdown should be made for technical employees."

(ii) "Overtime and fringe benefits, to the extent they exist" paid "to engineers and technical employees provided by outside entities of any kind to Boeing who are performing bargaining unit work."

(c) The information requested by the Union, as described above in paragraphs 7(a) and (b), inclusive, is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(d) Since about September 11, 2012, Respondent has failed and refused to furnish the Union with the information requested by it as described above in paragraph 7(a).

(e) Since about September 20, 2012, Respondent has failed and refused to furnish the Union with the information requested by it as described above in paragraph 7(b).

8.

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

9.

By the conduct described above in paragraph 7, Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its employees 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 Acting General Counsel seeks an order requiring that Respondent distribute copies of the notice electronically, such as by email, posting on an intranet or internet site, and/or other electronic means, if Respondent customarily communicates with its employees by such means. 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 §§ 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 12, 2013, or postmarked on or before April 11, 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 § 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 August 6, 2013, beginning at 9:00 a.m. in the James C. Sand Hearing Room, 2966 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 29th day of March, 2013.

RONALD K. HOOKS, REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD,
REGION 19
915 2ND AVE STE 2948
SEATTLE, WA 98174-1006

Attachments

Form NLRB-4668
(4-05)

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.

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 19-CA-093656

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.

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