

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

In re:

PITTSBURGH ATHLETIC ASSOCIATION,  
*et al.*<sup>1</sup>,  
*Debtors.*

Jointly Administered at:  
Bankruptcy No. 17-22222-JAD

Bankruptcy Nos:  
17-22222-JAD, and  
17-22223-JAD

PITTSBURGH ATHLETIC ASSOCIATION,  
et al,  
*Movants,*  
v.

Chapter 11

Doc. No.

UNITE HERE LOCAL 57, AFL-CIO, CLC  
and REGION SIX OF THE NATIONAL  
LABOR RELATIONS BOARD,  
*Respondents.*

Hearing: October 17, 2017 at 10:00 AM  
Responses Due: October 2, 2017

**MOTION TO APPROVE FORMAL SETTLEMENT STIPULATION PURSUANT TO  
FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019**

The Pittsburgh Athletic Association (“**PAA**”) and the Pittsburgh Athletic Association Land Company (“**PAA-LC**” and together with the **PAA** collectively, the “**Debtors**”) files this Motion To Approve Formal Settlement Stipulation Pursuant To Federal Rule of Bankruptcy Procedure 9019 by and between the PAA, UNITE HERE LOCAL 57, AFL-CIO, CLC (the “**Union**”) and Region Six of the National Labor Relations Board (the “**NLRB**”), and in support thereof, avers as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
2. Venue is appropriate pursuant to 28 U.S.C. §§ 1408 and 1409.
3. This matter constitutes a “core” proceeding pursuant to 28 U.S.C. §§ 157(b)(2).

---

<sup>1</sup> The Debtors have the following cases pending Pittsburgh Athletic Association, Bankruptcy No. 17-22222-JAD and the Pittsburgh Athletic Association Land Company, Bankruptcy No. 17-22223-JAD, both cases are being jointly administered under Case No. 17-22222-JAD.

4. The Statutory predicates for relief are 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 9019(a).

### **BACKGROUND**

5. On May 30, 2017 (the "**Petition Date**"), the Debtors filed voluntary petitions in this Court for relief under Chapter 11 of the Bankruptcy Code.

6. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

7. No trustee or examiner has been appointed in these chapter 11 cases.

8. On June 8, 2017, the Office of the United States Trustee formed the Official Committee of Unsecured Creditors (the "**Committee**").

9. On May 24, 2017, the NLRB filed a Complaint and Notice of Hearing against the PAA in case no. 06-CA-192273 (the "**Complaint**"). The Complaint alleges that the PAA violated the National Labor Relations Act (the "**Act**"), 29 U.S.C. § 151 *et seq.*, by failing to remit to the Union dues and fees deducted from Unit employees' wages.

10. The NLRB has continued to prosecute the Complaint under the police and regulatory powers exception to the automatic stay triggered by PAA's filing its petition for bankruptcy relief pursuant to 11 U.S.C. § 362(b)(4).

11. The parties have engaged in negotiations and have reached an agreement which they believe will fully and finally resolve the Complaint, and is in the best interest of the PAA's Estate (the "**Formal Settlement Stipulation**").

### THE FORMAL SETTLEMENT STIPULATION

12. The principal terms of the Formal Settlement Stipulation include the following:
- a. In lieu of further litigation and in full and complete resolution of all monetary claims arising from the Complaint, the PAA agrees that it owes \$4,975.87 (the “**Settlement Amount**”).
  - b. The PAA agrees that it will not contest or object to the allowance of the Board's claims, as asserted on Appendix B of the Formal Settlement Stipulation, however the PAA neither agrees nor disagrees as to the propriety or accuracy of any wage priority that may be claimed by the NLRB.

### RELIEF REQUESTED

13. The PAA respectfully request that this Honorable Court enter an order approving the Formal Settlement Stipulation as summarized above, and as attached in its entirety hereto as Exhibit “A” pursuant to Bankruptcy Rule 9019.

14. Rule 9019 of the Federal Rules of Bankruptcy Procedure states in pertinent part that:

On motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States Trustee, the debtor and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

Fed. R. Bankr. P. 9019.

15. The Third Circuit Court of Appeals recognizes a general policy in favor of settlements and compromises. *Myers v. Martin (In re Martin)*, 91 F.3d 389, 394 (3d Cir. 1996). Thus, a bankruptcy court reviewing a proposed settlement should approve it when it is fair and equitable and in the best interests of the debtor’s estate and creditors. *Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968); *In re Marvel Entertainment Grp., Inc.*, 222 B.R. 243, 249 (D. Del. 1998); *In re Louise’s Inc.*, 211 B.R. 798, 801 (D. Del. 1997).

16. In considering whether a proposed settlement is appropriate given the merits of the underlying dispute, a court should approve a settlement unless it “fall[s] below the lowest point in the range of reasonableness.” *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983) (citation omitted); *American Reserve Corp.*, 841 F.2d 159, 161 (7th Cir. 1987).

17. Courts within the Third Circuit often consider the following four factors in determining whether a settlement is within the range of reasonableness and fair and equitable:

- a. The probability of success in the litigation;
- b. The difficulties to be encountered in collection;
- c. The complexity of the litigation and the expense and inconvenience, and delay necessarily attending it; and
- d. The paramount interest of the creditors.

*Marvel Entertainment*, 222 B.R. at 249; *Fry’s Metals, Inc. v. Gibbons (In re RFE Industries, Inc.)*, 283 F.3d 159, 165 (3d Cir. 2002); *Official Unsecured Creditors’ Committee of Pennsylvania Truck Lines, Inv. v. Pennsylvania Truck Lines, Inc. (In re Pennsylvania Truck Lines, Inc.)*, 150 B.R. 595, 598 (E.D. Pa. 1992), *aff’d*, 8 F.3d 812 (3d Cir. 1993); *In re Grant Broadcasting of Philadelphia, Inc.*, 71 B.R. 390, 395 (Bankr. E.D. Pa. 1987).

18. The PAA believes that resolving the issues alleged in the Complaint are in the best interest of the PAA and the PAA’s creditors, and that the terms of the Formal Settlement Stipulation are fair and reasonable.

19. The Third Circuit factors described above also favor approval of the Formal Settlement Stipulation.

20. With respect to the probability of success in the litigation, this factor is inapplicable as the Complaint was filed by the NLRB against the PAA.

21. The second factor is inapplicable to the PAA in this context as any resulting monetary claim is against the PAA.

22. With respect to the third factor, the litigation in this context is complex and specialized and would likely require the Debtor to engage special labor relations counsel to attend to these matters and the trial before the NLRB which would add another layer of administrative expense to the PAA.

23. Finally with regard to the fourth factor, the PAA is relieved of the continuing and costly expenses and fees being incurred in connection with defending the Complaint and such a savings will provide value to the PAA's estate.

24. As set forth in Section VIII, paragraph 3 of the Formal Settlement Stipulation, "The parties hereto agree that this Stipulation is subject to the approval of the Bankruptcy Court on notice to creditors and interested parties".

25. Accordingly, the PAA believes that the Formal Settlement Stipulation is well within the range of reasonableness. The Formal Settlement Stipulation fully and finally resolves the issues contained in Complaint.

26. For the foregoing reasons, the PAA submits that the Formal Settlement Stipulation is in the best interest of the PAA and its creditors and respectfully request that this Court approve the Formal Settlement Stipulation.

WHEREFORE the PAA respectfully request that this Honorable Court enter an order approving the Formal Settlement Stipulation.

Dated: September 14, 2017

Respectfully Submitted,

TUCKER ARENSBERG, P.C.

/s/ Jillian Nolan Snider

Jordan S. Blask, Esquire

PA ID No. 308511

Jillian N. Snider, Esquire

PA ID No. 202253

1500 One PPG Place

Pittsburgh, PA 15222

Phone: 412-566-1212

[jblask@tuckerlaw.com](mailto:jblask@tuckerlaw.com)

*Counsel for the Debtors*

**Exhibit “A”**

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 6**

**PITTSBURGH ATHLETIC ASSOCIATION**

**And**

**Case 06-CA-192273**

**UNITE HERE LOCAL 57, AFL-CIO, CLC**

**FORMAL SETTLEMENT STIPULATION**

**I. INTRODUCTION**

Through this Formal Settlement Stipulation (Stipulation), the undersigned parties to this proceeding, Pittsburgh Athletic Association (Respondent), UNITE HERE Local 57, AFL-CIO, CLC (the Union), and General Counsel of the National Labor Relations Board agree that, upon approval of this Stipulation by the National Labor Relations Board (the Board), a Board Order in conformity with its terms will issue, and a court judgment enforcing the Order will be entered.

The parties agree to the following:

**II. JURISDICTION**

(a) Respondent has been a non-profit Pennsylvania corporation with an office and place of business in Pittsburgh, Pennsylvania (Respondent's facility) and was operating a social club which provided food, beverage and services to members and their guests. Respondent admits to the Board's jurisdiction in this matter.

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



### **III. LABOR ORGANIZATION STATUS**

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

### **IV. PROCEDURE**

#### **1. FILING AND RECEIPT OF CHARGE**

The charge in Case 06-CA-192273 was filed by the Charging Party on January 31, 2017 and a copy was served on Respondent on February 2, 2017. Respondent acknowledges receipt of the charge.

#### **2. ISSUANCE OF COMPLAINT**

On May 24, 2017, the Regional Director for Region 6 of the Board issued a Complaint and Notice of Hearing in Case 06-CA-192273, alleging that Respondent violated the National Labor Relations Act. Respondent and the Charging Party each acknowledge receipt of a copy of the Complaint and Notice of Hearing, which was served by certified mail on May 24, 2017.

#### **3. WAIVER**

All parties waive the following: (a) filing an answer to the Complaint; (b) hearing; (c) administrative law judge's decision; (d) filing of exceptions and briefs; (e) oral argument before the Board; (f) the making of findings of fact and conclusions of law by the Board; (g) all other proceedings to which the parties may be entitled under the Act or the Board's Rules and Regulations.

#### **4. THE RECORD**

The entire record in this matter consists of the following documents: this Stipulation; the charge; and Complaint and Notice of Hearing. Copies of the charge and Complaint and Notice of Hearing are attached as Exhibits 1 and 2.

5. ENTIRE AGREEMENT

The Stipulation constitutes the entire agreement between the parties, and there is no agreement of any kind, verbal or otherwise, that alters or adds to it.

6. SCOPE OF THE STIPULATION AND RESERVATION OF EVIDENCE

This Stipulation settles only the allegations in the above-captioned case and does not constitute a settlement of any other cases or matters. It does not preclude persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the court from finding violations with respect to the matters which precede the date of the approval of this Stipulation, regardless of whether those matters are known to the General Counsel or are readily discoverable. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case for any relevant purpose in the litigation of this or any other cases, and a judge, the Board and the courts may make findings of fact or conclusions of law with respect to that evidence.

7. EFFECTIVE DATE

This Stipulation is subject to the approval of the Board, and it does not become effective until the Board has approved it. The Regional Director will file with the Board this Stipulation and the documents constituting the record as described above. Once the Board has approved the Stipulation, Respondent will immediately comply with the provisions of the order as set forth below.

V. FACTS

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

All full-time and regular part-time food and beverage and housekeeping employees employed by the Respondent at its Pittsburgh, Pennsylvania facility; excluding guards, professional employees and supervisors as defined in the Act and all other employees.

2. At all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms from March 1, 2012 to February 28, 2015.
3. At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

#### **VI. ORDER**

Based on this record as described above and without further notice of proceedings, the Board may immediately enter an order providing as follows:

Respondent, Pittsburgh Athletic Association, its officers, agents, successors and assigns, shall:

1. Cease and desist from:
  - a. Failing and refusing to bargain collectively with UNITE HERE Local 57, AFL-CIO, CLC (Union) as the collective-bargaining representative of all employees in the Unit.
  - b. Unilaterally failing to remit to the Union dues and fees deducted from its Unit employees' wages.
  - c. In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

- a. Upon request, bargain collectively with UNITE HERE Local 57, AFL-CIO, CLC as the exclusive representative of the Unit employees, with respect to pay, wages, hours of employment and other conditions of employment, and if an understanding is reached, reduce it to writing and sign it.
- b. Make whole the Union in the manner and amount specified in the attached document marked as Appendix B, the amounts of which correspond to the Unit employees, set opposite their respective names, subject to Bankruptcy Court approval and payment made pursuant to the terms of a Chapter 11 plan.
- c. Within 14 days of service by the Region, post at its facility, copies of the attached notice marked as Appendix A.<sup>1</sup> Copies of the notice, on forms provided by Region 6, after being signed by Respondent's authorized representative, shall be posted by Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, Respondent shall distribute notices electronically, by email, posting on an intranet or internet site, and/or other

---

<sup>1</sup> If this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

electronic means, if the Respondent customarily communicates with its employees by such means. Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material.

- d. Respondent shall duplicate and mail, at its own expense, a copy of the attached notice marked Appendix A, to all current employees and former employees employed by Respondent at any time since October 2016.
- e. Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

## **VII. ENFORCEMENT OF ORDER**

The United States Court of Appeals for any appropriate circuit may, on application by the Board, enter its judgment enforcing the Order of the Board in the form set above. Respondent waives all defenses to the entry of the judgment, including compliance with the order of the Board and its right to receive notice of the filing of an application for the entry of such judgment, provided that the judgment is in the words and figures set forth above. However, Respondent shall be required to comply with the affirmative provisions of the Board's Order after entry of the judgment only to the extent that it has not already done so.

## **VIII. BANKRUPTCY**

- 1. The parties hereto acknowledge that on May 30, 2017 (the Petition Date) Respondent Pittsburgh Athletic Association filed a voluntary petition for relief under Chapter 11

of the Bankruptcy Code in the U.S. Bankruptcy Court for the Western District of Pennsylvania (the Bankruptcy Court), *In re Pittsburgh Athletic Association, et al.*, Case No. 17-22222-JAD (the Bankruptcy Case) and that the Bankruptcy Case remains pending.

2. The amounts for which Respondent is responsible for paying pursuant to subparagraphs VI(2)(b) above constitute claims in the Bankruptcy Case which are liquidated and allocated as set forth in Appendix B. The parties hereto agree that the claims arising from this Stipulation shall be allocated and allowed as set forth on Appendix B. No claims arising from this Stipulation shall be asserted against Respondent other than as set forth and allocated on Appendix B and the Respondents agree that they will not contest or object to the allowance of such claims in the amount of \$4975.87. The parties hereto agree that the claims may be paid over a period following confirmation of a Chapter 11 plan of reorganization, which period shall be defined by the Bankruptcy Court.

3. The parties hereto agree that this Stipulation is subject to the approval of the Bankruptcy Court on notice to creditors and interested parties. Upon execution of this Stipulation by the parties hereto, Respondent shall forthwith file and serve a motion in the Bankruptcy Case seeking approval of this Stipulation.

4. The parties agree that upon approval of this Stipulation by the Bankruptcy Court, the claims liquidated hereby shall be deemed allowed for purposes of treatment and distribution in connection with the Bankruptcy Case.

**PITTSBURGH ATHLETIC ASSOCIATION**

BY: 

Date: 8.17.2017

**UNITE HERE LOCAL 57, AFL-CIO, CLC**

BY: 

Date: 8-18-2017

**Approval recommended:**

BY: 

Date: 8/21/2017

Emily M. Sala  
Counsel for the General Counsel  
Wm. S. Moorhead Federal Building  
1000 Liberty Avenue, Room 904  
Pittsburgh, PA 15222

**Approved:**

BY: 

Date: 8/21/17

Nancy Wilson, Regional Director  
Region 6  
Wm. S. Moorhead Federal Building  
1000 Liberty Avenue, Room 904  
Pittsburgh, PA 15222

Appendix A

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

**FEDERAL LAW GIVES YOU THE RIGHT TO:**

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

**WE WILL NOT** do anything to prevent you from exercising the above rights.

**WE WILL NOT** refuse to bargain in good faith with UNITE HERE Local 57, AFL-CIO (the Union) as the exclusive collective-bargaining representative of our employees in the following appropriate unit (the Unit):

All full-time and regular part-time food and beverage and housekeeping employees employed by the Respondent at its Pittsburgh, Pennsylvania facility; excluding guards, professional employees and supervisors as defined in the Act and all other employees.

**WE WILL NOT** fail to remit Unit employees' dues to the Union.

**WE WILL NOT** in any like or related manner interfere with your rights under Section 7 of the Act.

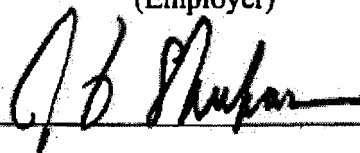
**WE WILL**, upon request, bargain in good faith with the Union as the exclusive collective-bargaining representative of the Unit employees.

**WE WILL** make whole the Union for the amounts of dues we deducted from Unit employees but failed to remit to the Union.

Pittsburgh Athletic Association

(Employer)

Dated 8.17.2017 By: \_\_\_\_\_





: \_\_\_\_\_ PRESIDENT, PAA.  
(Representative) (Title)

---

*The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-866-667-NLRB (1-866-667-6572). Hearing impaired persons may contact the Agency's TTY service at 1-866-315-NLRB. You may also obtain information from the Board's website: [www.nlr.gov](http://www.nlr.gov).*

1000 LIBERTY AVENUE, ROOM 904  
PITTSBURGH, PA 15222

Telephone: (412) 395-4400  
Hours of Operation: 8:30 a.m. to 5 p.m.

---

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.

Appendix B

Pittsburgh Athletic Association				
Case 06-CA-192273				
		<b><u>Dues Deducted and Not Remitted, September 2016 to May 30, 2017</u></b>		
<b><u>Last Name</u></b>	<b><u>First Name</u></b>		<b><u>Amount due to Union<sup>2</sup></u></b>	
DeMartino	Michael		274.82	
Dilembo	Maria		235.56	
Dinardo	Joseph		80	
Dochev	Diyan		274.82	
Engel	Mary Ann		274.82	
Englert	Kenneth		157.04	
Frey	John		274.82	
Gebet	Ronald		294.45	
Hines	Donald		255.19	
Hruska	David		294.45	
Ismaeli	Ruqqayah		19.63	
Johnson	Brian		294.45	
LaGoy	Alice		78.52	
Madorsky	Alla		19.63	
McPherson	Mark		39.26	
McPherson, Jr.	Stanley		274.82	
Scott	John		314.08	
Smetana	Joseph		8	
Stanziola	Rachel		58.89	
Tratras	John		294.45	
Turkovich	David		39.26	
Varion	Jeffrey		294.45	
Volk	Mark		274.82	
Williams	Antwaun		19.63	
Wilson	Brian		294.45	
Wolfram	Nancy		235.56	
		Total due to Union	4975.87	

<sup>2</sup> The Respondent owes the claimants an undetermined amount of post-petition interest accruing from amounts claimed in Appendix B. Post-Petition interest is payable pursuant to 11 U.S.C. §726(a)(5) if Respondent is solvent at the close of the case. The Region reserves the right to amend its Proof of Claim regarding Post-Petition interest.

INTERNET  
FORM NLRB-501  
(2-08)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

## DO NOT WRITE IN THIS SPACE

Case  
06-CA-192273Date Filed  
1-31-17

## INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

## 1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Pittsburgh Athletic Association		b. Tel. No. (412) 621-2400
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 4215 5th Ave PA Pittsburgh 15213-3599	e. Employer Representative Thomas Trimbur President	g. e-Mail
		h. Number of workers employed 15
i. Type of Establishment (factory, mine, wholesaler, etc.) Services Industry Group	j. Identify principal product or service	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 5 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

## 2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

## 3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Claudia Davidson  
Local 57 Unitehere

Title:

## 4a. Address (Street and number, city, state, and ZIP code)

60 Blvd of the Allies  
PA Pittsburgh 15222-\_\_\_\_\_4b. Tel. No.  
(412) 235-7644

4c. Cell No.

4d. Fax No.  
(412) 904-27714e. e-Mail  
claudia.davidson@pghlaborlawyers.com

## 5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

## 6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By Claudia Davidson

(signature of representative or person making charge)

Claudia Davidson  
Title: counsel

(Print/type name and title or office, if any)

Tel. No.  
(412) 391-7709

Office, if any, Cell No.

Fax No.  
(412) 391-1190e-Mail  
claudia.davidson@pghlaborlawyers.com429 Fourth Ave  
Address Pittsburgh PA 15219-01/31/2017 14:37:33  
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

### Basis of the Charge

8(a)(5)

Within the previous six months, the Employer failed and refused to bargain in good faith with the union as the collective bargaining representative of its employees by making unilateral changes in terms and conditions of employment.

List Changes	Approximate date of change
failuire to remit union dues without barginiang	

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 6**

**PITTSBURGH ATHLETIC ASSOCIATION**

**and**

**Case 06-CA-192273**

**UNITE HERE LOCAL 57, AFL-CIO, CLC**

**COMPLAINT AND NOTICE OF HEARING**

This Complaint and Notice of Hearing is based on a charge filed by UNITE HERE Local 57, AFL-CIO, CLC (Union). It 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 Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Pittsburgh Athletic Association (Respondent) has violated the Act as described below.

1. The charge in this proceeding was filed by the Union on January 31, 2017, and a copy was served on Respondent by U.S. mail on February 2, 2017.

2. At all material times, Respondent, a non-profit Pennsylvania corporation, with an office and place of business in Pittsburgh, Pennsylvania, herein called Respondent's facility, has been engaged in the operation of a social club which provides food, beverage and services to members and their guests.

3. (a) In conducting its operations, during the 12-month period ending December 31, 2016, Respondent derived gross revenues in excess of \$500,000.

(b) In conducting its operations, during the 12-month period ending December 31, 2016, Respondent, purchased and received at its Pittsburgh, Pennsylvania, facility goods valued in excess of \$50,000 from other enterprises, including Sysco Food Service, located within the

Commonwealth of Pennsylvania, which other enterprise had received these goods directly from points outside the Commonwealth of Pennsylvania.

4. 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.

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

6. 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 agents of Respondent within the meaning of Section 2(13) of the Act:

Thomas Trimbur - President, Board of Directors

Charles Felix - Member, Board of Directors

Robert E. Dauer, Jr. - Treasurer, Board of Directors

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

All full-time and regular part-time food and beverage and housekeeping employees employed by the Respondent at its Pittsburgh, Pennsylvania facility; excluding guards, professional employees and supervisors as defined in the Act and all other employees.

8. At all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms from March 1, 2012 to February 28, 2015.

9. At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

10. Since about October 2016, Respondent failed to remit to the Union dues and fees deducted from Unit employees' wages.

11. The subject set forth above in paragraph 10 relates to wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purposes of collective bargaining.

12. Respondent engaged in the conduct described above in paragraph 10 without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct and/or the effects of this conduct.

13. By the conduct described above in paragraphs 10 and 12, 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)(1) and (5) of the Act.

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

#### 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 June 7, 2017, or postmarked on or before June 6, 2017. 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.nlr.gov](http://www.nlr.gov), click on E-File 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 September 1, 2017 at 10:00 a.m., at the National Labor Relations Board, Region 6 Office, William S. Moorhead Federal Building, 1000 Liberty



Avenue, Room 904, Pittsburgh, PA, 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: May 24, 2017



---

NANCY WILSON  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 06  
1000 Liberty Ave Rm 904  
Pittsburgh, PA 15222-4111

Attachments

FORM NLRB 4338  
(6-90)

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case 06-CA-192273

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.

Pittsburgh Athletic Association  
Thomas Trimbur, President  
4215 5th Ave  
Pittsburgh, PA 15213-3599

Thomas P. Trimbur, President  
Trimbur Insurance Agency  
3907 Old William Penn Highway  
Suite 402  
Murrysville, PA 15668

Cory E. Ridenour, Esq.  
Ogletree, Deakins, Nash, Smoak & Stewart,  
P. C.  
One PPG Place-Suite 1900  
Pittsburgh, PA 15222

FORM NLRB 4338  
(6-90)

Page. 2

Jeffrey E. Borello, Co-General Manager  
Pittsburgh Athletic Association  
4215 5th Avenue  
Pittsburgh, PA 15213

Jennifer G. Betts, Esquire  
Ogletree, Deakins, Nash, Smoak &  
Stewart, P.C.  
One PPG Place, Suite 1900  
Pittsburgh, PA 15222

Claudia Davidson, Esquire  
Law Office of Claudia Davidson  
429 4th Avenue Ste. 500  
Law & Finance Bldg.  
Pittsburgh, PA 15219-1503

UNITE HERE Local 57, AFL-CIO, CLC  
60 Boulevard of the Allies  
Five Gateway Center, Suite 615  
Pittsburgh, PA 15222-1214

Form NLRB-4668  
(6-2014)

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. You may be represented at this hearing by an attorney or other representative. If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website, at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each exhibit should be supplied to the ALJ and each party when the exhibit is offered.

(OVER)

Form NLRB-4668  
(6-2014)

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court 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 ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are 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. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

### III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting 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 provided to the parties with the order transferring the matter to the Board.

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

In re:  PITTSBURGH ATHLETIC ASSOCIATION, <i>et al.</i> <sup>1</sup> ,  <i>Debtors.</i>	Jointly Administered at: Bankruptcy No. 17-22222-JAD  Bankruptcy Nos: 17-22222-JAD, and 17-22223-JAD
PITTSBURGH ATHLETIC ASSOCIATION, <i>et al.</i> ,  <i>Movants</i> ,  v.  UNITE HERE LOCAL 57, AFL-CIO, CLC and REGION SIX OF THE NATIONAL LABOR RELATIONS BOARD,  <i>Respondents.</i>	Chapter 11  Doc. No. _____

**ORDER OF COURT**

**AND NOW**, this \_\_\_\_ day of \_\_\_\_\_, **2017**, upon consideration of the Motion to Approve Formal Settlement Stipulation pursuant to Federal Rule of Bankruptcy Procedure 9019 (the “Motion”), it is hereby **ORDERED ADJUDGED** and **DECREED** that the Motion is **GRANTED** and that the Formal Settlement Stipulation attached to the Motion as Exhibit “A” is **APPROVED**. In accordance with the Formal Settlement Stipulation, the key terms of the settlement include that Region Six of the National Labor Relations Board shall have an unsecured claim in the amount \$4,975.87 in the PAA’s case and the PAA neither agrees nor disagrees as to the propriety or accuracy of any wage priority that may be claimed by Region Six of the National Labor Relations Board.

---

**JEFFERY A. DELLER**  
**Chief U.S. Bankruptcy Judge**

---

<sup>1</sup> The Debtors have the following cases pending Pittsburgh Athletic Association, Bankruptcy No. 17-22222-JAD and the Pittsburgh Athletic Association Land Company, Bankruptcy No. 17-22223-JAD, both cases are being jointly administered under Case No. 17-22222-JAD.