

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

APOLLO DETECTIVE, INC.

And

CASE 13-CA-61510

FRANK ROGERS, AN INDIVIDUAL

And

**LOCAL 1, SERVICE EMPLOYEES
INTERNATIONAL UNION**

**MOTION TO TRANSFER PROCEEDINGS TO THE
BOARD AND MOTION FOR DEFAULT JUDGMENT**

Brigid Garrity, Counsel for the Acting General Counsel of the National Labor Relations Board, files this Motion to Transfer Proceedings to the Board and Motion for Default Judgment, pursuant to Section 102.50 and 102.56 of the Board's Rules and Regulations. Respondents Apollo Detective, Inc. and Frank Rogers, an Individual, failed to file a proper Answer to the Supplemental Compliance Specification and Notice of Hearing in the required timeframe, entitling the Acting General Counsel to default judgment. Board's Rules and Regulations, § 102.56; *Lindell Drop Forge Company, et al*, 305 NLRB No. 116 (1995).

In support of this motion, Counsel for the Acting General Counsel states the following:

1. On January 31, 2012, a Decision and Order was issued by the National Labor Relations Board, in *Apollo Detective, Inc.*, 358 NLRB No. 1 (2012) directing Respondent to remit to Local 1, Service Employees International Union those union dues

that it had collected from its employees but not remitted in the amount of \$5,348 with interest as prescribed by *New Horizons for the Retarded*, 283 NLRB 1173 (1987) and compounded as prescribed by *Kentucky River Medical Center*, 356 NLRB No. 8 (2010). A copy of said decision is attached hereto as Exhibit 1. This Board decision was issued due to the Acting Regional Director for Region 13's Motion for Default Judgment on a Consolidated Complaint and Compliance Specification.

2. Following the Board's Order, the compliance investigation produced controversies over whether Frank M. Rogers (Rogers), an Individual, was jointly and severally liable to fulfill the remedial obligations of the Board's Order. Thus, the Acting Regional Director issued a Supplemental Compliance Specification and Notice of Hearing on July 26, 2012. The Supplemental Compliance Specification advised both Apollo Detective, Inc., and Frank Rogers, (hereafter Respondents) that if they failed to file an Answer to the Supplemental Compliance Specification by August 16, 2012, as required under Section 102.56 of the Board's Rules and Regulations, all allegations in the Supplemental Compliance Specification would be considered to be admitted true. A copy of said Supplemental Compliance Specification and the Affidavit of Service are attached hereto as Exhibits 2 and 3, respectively.

3. On August 16, 2012, Ms. Garrity sent Respondents a letter via certified mail. The letter stated that Respondents had failed to file an Answer to the outstanding Supplemental Compliance Specification by the specified deadline, and that if Respondents failed to file an Answer by August 23, 2012, the Region would file a Motion for Default Judgment with the Board. A copy of said letter and the proof of service are attached hereto as Exhibits 4 and 5, respectively.

Motion for Default Judgment with the Board. A copy of said letter and the proof of service are attached hereto as Exhibits 4 and 5, respectively.¹

4. No answer was received by either Apollo Detective, Inc. or Frank Rogers by August 23, 2012. Thus, Respondents have failed to specifically admit, deny or explain each of the facts alleged in the Supplemental Compliance Specification or whether Respondent was without knowledge as required by Section 102.56 (b).

5. Due to the lack of a proper Answer despite additional reminders to file the formal Answer to the Supplemental Compliance Specification, no hearing in this matter is necessary and the Board should issue a Decision and Order without further proceedings herein.

WHEREFORE, Counsel for the General Counsel respectfully moves that the Board grant the Motion to Transfer Proceedings to the Board and Motion for Default Judgment, finding all of the allegations of the Supplemental Compliance Specification to be true, and issue an appropriate Decision and Order.

DATED at Chicago, Illinois, this 29th day of August, 2012.



Brigid Garrity
Counsel for the General Counsel
National Labor Relations Board
Region 13
209 South LaSalle Street, Suite 900
Chicago, Illinois 60604

Attachments
Exhibits 1-5

¹ Respondent affirmed during the compliance investigation on June 26, 2012, that the address the Region achieved service (in Schererville, IN) was in fact the correct address.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of August, 2012 the **Motion to Transfer Proceedings to the Board and Motion for Summary Judgment** has been electronically filed with the Board's Office of Executive Secretary and that, pursuant to Section 102.114 of the Board's Rules and Regulations as revised January 23, 2009, true and correct copies of that document have been served upon the following parties of record via overnight delivery service and electronic mail to the e-mail address listed below on that same date:

Frank Rogers
Apollo Detective, Inc.
1440 W. 127th Street
Calumet Park, IL 60827-6046

Frank Rogers
Apollo Detective, Inc.
1441 Inverness Ln.
Scherverville, IN 46375-2930

Steven M. Stewart
Local 1, SEIU
111 E. Wacker Drive, Ste. 2500
Chicago, IL 60601-3704
stewarts@seiul.org



Brigid Garrity
Counsel for General Counsel
National Labor Relations Board Region 13
209 South LaSalle Street, Suite 900
Chicago, Illinois 60604
(312) 353-5564

C

358 NLRB No. 1, 192 L.R.R.M. (BNA) 1408, 2012 WL 314155 (N.L.R.B.)

NATIONAL LABOR RELATIONS BOARD (N.L.R.B.)

*1 APOLLO DETECTIVE, INC.
AND
SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL 1

Case 13-CA-61510

January 31, 2012

SUMMARY

The Acting General Counsel sought a default judgment in this case on the ground that the respondent failed to file an answer to the consolidated complaint and compliance specification. The Board found that the respondent violated the Act by failing to remit to the union any dues deducted pursuant to the terms of the collective-bargaining agreement, and by interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them. Charge filed by Service Employees International Union, Local 1. Chairman Pearce and Members Hayes and Griffin, Jr. participated.

DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS HAYES
AND GRIFFIN

The Acting General Counsel seeks a default judgment in this case on the ground that Apollo Detective, Inc. (the Respondent) has failed to file an answer to the consolidated complaint and compliance specification. Upon a charge filed by Service Employees International Union, Local 1 (the Union) on July 21, 2011, the Acting General Counsel issued the complaint, compliance specification, order consolidating complaint and compliance specification, answer requirement, and notice of consolidated hearing (the consolidated complaint and compliance specification) on September 27, 2011, against the Re-

spondent, alleging that it had violated Section 8(a)(1) of the Act. The Respondent failed to file an answer.

On December 7, 2011, the Acting General Counsel filed a Motion for Default Judgment with the Board.^[FN1] Thereafter, on December 8, 2011, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. Similarly, Section 102.56 of the Board's Rules and Regulations provides that the allegations in a compliance specification will be taken as true if an answer is not filed within 21 days from service of the compliance specification. In addition, the consolidated complaint and compliance specification affirmatively stated that unless an answer was received by October 18, 2011, the Board may find, pursuant to a motion for default judgment, that the allegations in the consolidated complaint and compliance specification are true. Further, the undisputed allegations in the Acting General Counsel's motion disclose that the Region, by letter dated October 26, 2011, notified the Respondent that unless an answer was received by November 2, 2011, a motion for default judgment would be filed.^[FN2] Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations in the consolidated complaint and compliance specification to be admitted as true, and we grant the Acting General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

EXHIBIT 1

I. JURISDICTION

At all material times the Respondent, an Illinois corporation, with an office and place of business in Calumet Park, Illinois (the Respondent's facility), has been engaged in the business of providing security guard services at various locations.

*2 During the calendar year preceding issuance of the complaint, a representative period, the Respondent, in conducting its business operations described above, provided security services in excess of \$50,000 to enterprises which are directly engaged in interstate commerce.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, Frank Rogers held the position of the Respondent's president, and has been a supervisor of the Respondent within the meaning of Section 2(11) of the Act and an agent of the Respondent within the meaning of Section 2(13) of the Act.

About January 1, 2008, the Respondent and the Union entered into a collective-bargaining agreement covering certain of the Respondent's employees, which provides:

The Employer agrees to deduct in the first pay period of each month, from the pay of every employee who has executed and caused to be delivered to the Employer a written assignment, the regular monthly dues and the initiation fee and COPE contributions of the Union, if due and owing, in accordance with the constitution and bylaws of the Union. Where the employee, who is on check off, has insufficient earnings during the first pay period of the month, the deductions shall be made by the Employer from the next wage payment in accordance with billings furnished by the Union. A complete list of employees describing the deduction shall be submitted with each remittance.

From January 21 until it closed about July 17, 2011, the Respondent deducted union dues from its employees' paychecks pursuant to the dues-checkoff provision in the collective-bargaining agreement and employee checkoff authorizations.

From January 21 until it closed about July 17, 2011, the Respondent failed to remit to the Union the union dues it deducted from the employees' paychecks and retained the money for itself.

CONCLUSION OF LAW

By the conduct described above, the Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act and engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(1) by failing, from January 21 until about July 17, 2011, to remit union dues to the Union that were deducted from the pay of unit employees pursuant to the collective-bargaining agreement and employee dues-checkoff authorizations, we shall order the Respondent to remit the withheld dues to the Union as required by the agreement and the employee dues-checkoff authorizations, and set forth in the consolidated complaint and compliance specification, with interest at the rate prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), enf. denied on other grounds sub nom. *Jackson Hospital Corp. v. NLRB*, 647 F.3d 1137 (D.C. Cir. 2011).^[FN3]

*3 Further, in view of the fact that the Respondent's facility is closed, we shall order the Respondent to mail a copy of the attached notice to the Union and to the last known addresses of its former unit employees in order to inform them of the outcome of this proceeding.

ORDER

The National Labor Relations Board orders that the Respondent, Apollo Detective, Inc., Calumet Park, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing to remit to the Union any dues deducted pur-

suant to the terms of the collective-bargaining agreement.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

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

Total Union Dues Owed:

(b) Within 14 days after service by the Region, duplicate and mail, at its own expense and after being signed by the Respondent's authorized representative, copies of the attached notice marked "Appendix"^[FN4] to the Union and to all unit employees who were employed by the Respondent at its Calumet Park, Illinois facility at any time from January 21 until it ceased operations on July 17, 2011. In addition to physical mailing of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means.^[FN5]

(c) 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 that the Respondent has taken to comply.

Dated, Washington, D.C. January 31, 2012

Mark Gaston Pearce
Chairman

Brian E. Hayes
Member

Richard F. Griffin, Jr.
Member

FN1. Although the Notice to Show Cause lists November 30, 2011, as the date on which the motion was filed, the motion was not properly filed with the Board until December 7.

FN2. As set forth in the Acting General Counsel's motion, the consolidated complaint and compliance specification was served by certified mail upon the last known address on file for the Respondent. The Respondent had previously received and accepted written communications addressed to that same address, as recently as September 23, 2011. The Respondent has not notified the Region that this ad-

(a) Remit to the Union the union dues collected pursuant to the terms of the collective-bargaining agreement that the Respondent failed to remit between January 21 and July 17, 2011, with interest at the rate prescribed in *New Horizons for the Retarded*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra:

\$5348

dress is no longer valid. However, the consolidated complaint and compliance specification was returned to the Region and marked "RETURN TO SENDER UNCLAIMED UNABLE TO FORWARD." It is well settled that a respondent's failure or refusal to accept certified mail or to provide for appropriate service cannot serve to defeat the purposes of the Act. See, e.g., *I.C.E. Electric, Inc.*, 339 NLRB 247, 247 fn. 2 (2003), and cases cited therein.

FN3. The Regional Director has reserved the right to amend any or all provisions of the compliance specification by inclusion of information not now known to the Regional Director.

FN4. If the Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Mailed by Order of the National Labor Relations Board" shall read "Mailed Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

FN5. For the reasons stated in his dissenting opinion in *J. Picini Flooring*, 356 NLRB No. 9 (2010), Member Hayes would not require electronic distribution of the notice.

APPENDIX

NOTICE TO EMPLOYEES

MAILED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

*4 The National Labor Relations Board has found that we violated Federal labor law and has ordered us to mail and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives 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 fail to remit to the Union any dues deducted pursuant to the terms of the collective-bargaining agreement.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL remit to the Union the union dues collected pursuant to the terms of the collective-bargaining agreement that we failed to remit between January 21 and July 17, 2011, in the amount of \$5348, plus interest.

APOLLO DETECTIVE, INC.

358 NLRB No. 1, 192 L.R.R.M. (BNA) 1408, 2012 WL 314155 (N.L.R.B.)

END OF DOCUMENT

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

APOLLO DETECTIVE, INC.

and

FRANK ROGERS, AN INDIVIDUAL

CASE 13-CA-061510

and

**LOCAL 1, SERVICE EMPLOYEES
INTERNATIONAL UNION**

**SUPPLEMENTAL COMPLIANCE SPECIFICATION
AND
NOTICE OF HEARING**

The National Labor Relations Board issued its Decision and Order (358 NLRB No. 1) on January 31, 2012, ruling of the Acting General Counsel's Motion for Default Judgment on a consolidated complaint and compliance specification and directing Apollo Detective, Inc. (Respondent) to remit to Local 1, Service Employees International Union the union dues collected that Respondent failed to remit, \$5,348.00 with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987) compounded as prescribed in *Kentucky River Medical Center*, 256 NLRB No. 8 (2010).

As controversies exist over whether Frank M. Rogers (Rogers), An Individual, is jointly and severally liable to fulfill the remedial obligations of the Board's Order, the Regional Director of the National Labor Relations Board for Region 13, pursuant to authority duly conferred upon him by the Board, issues this Supplemental Compliance Specification and Notice of Hearing and alleges as follows:

I

At all material times until the cessation of its operations, Respondent was an Illinois corporation with an office and place of business at 1440 W. 127th Street, Calumet Park, Illinois 60827 and was engaged in the business of providing security services.

II

(a) At all material times, Rogers has been an officer and sole shareholder of Respondent Apollo Detective, Inc.

(b) At all material times, Rogers failed to adhere to corporate formalities in the management and direction of Respondent by: (1) failing to maintain arm's length relationship between Respondent and himself; (2) failing to follow the rules of corporate governance; (3) failing to segregate accounts; (4) by diverting corporate funds or assets

for non-corporate purposes; and (5) by commingling corporate and personal funds and money.

(c) Based on the conduct described above in subparagraph (b), the corporate veil shielding Rogers from personal liability arising from the Board's Order should be pierced.

III

The Regional Director reserves the right to amend any or all provisions of this Specification by inclusion of information not now known to the Regional Director.

IV

Summarizing the facts specified above, Rogers, as Respondent's officer and sole shareholder shall be jointly and severally liable for the obligations of the Respondent and for the to make whole remedy in the amount of \$5,348.00; which obligations owing to the Union under the Board Order, will be satisfied by payment to them, the amount of \$5,348.00, plus interest accrued to the date of payment pursuant to such Order.

ANSWER REQUIREMENT

Rogers and Respondent are notified that, pursuant to Section 102.56 of the Board's Rules and Regulations, they must file an answer to the supplemental compliance specification. The answer must be **received by this office on or before August 16, 2012, or postmarked on or before August 15, 2012.** Unless filed electronically in a pdf format, Rogers and Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.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 such 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 compliance specification is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature 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 be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

As to all matters set forth in the compliance specification that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial is not sufficient. See Section 102.56(b) of the Board's Rules and Regulations, a copy of which is attached. Rather, the answer must state the basis for any disagreement with any allegations that are within the Rogers or Respondent's knowledge, and set forth in detail Rogers and Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

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 supplemental compliance specification are true. If the answer fails to deny allegations of the supplemental compliance specification in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the supplemental compliance specification are true and preclude Rogers and/or Respondent from introducing any evidence controverting those allegations.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on Wednesday, September 26, 2012, at 10:00 a.m., at 209 South LaSalle Street, Chicago, Illinois, 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, Rogers, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this supplemental compliance specification. 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 Chicago, Illinois this 26th day of July 2012.

/s/ Gail R. Moran
Gail R. Moran, Acting Regional Director
National Labor Relations Board
Region 13
209 South LaSalle Street, Suite 900
Chicago, Illinois 60604

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 13-CA-061510

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.

FRANK ROGERS
APOLLO DETECTIVE, INC.
1440 W 127TH ST
CALUMET PARK, IL 60827-6046

FRANK ROGERS
APOLLO DETECTIVE, INC.
1441 INVERNESS LN
SCHERERVILLE, IN 46375-2930

STEVEN M. STEWART, COUNSEL
LOCAL 1, SEIU
111E E WACKER DR STE 2500
CHICAGO, IL 60601-3704

DENISE
S/B
COMPLIANCE

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

APOLLO DETECTIVE, INC.

And

FRANK ROGERS, AN INDIVIDUAL

Case 13-CA-061510

And

LOCAL 1, SERVICE EMPLOYEES
INTERNATIONAL UNION

**AFFIDAVIT OF SERVICE OF: SUPPLEMENTAL COMPLIANCE SPECIFICATION
AND NOTICE OF HEARING, DATED JULY 26, 2012.**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **July 26, 2012**, I served the above-entitled document(s) by **certified mail**, as noted below, upon the following persons, addressed to them at the following addresses:

✓ FRANK ROGERS
APOLLO DETECTIVE, INC.
1440 W 127TH ST
CALUMET PARK, IL 60827-6046

#7004 1160 0001 1379 4233

STEVEN M. STEWART, Counsel
LOCAL 1, SEIU
111E E WACKER DR STE 2500
CHICAGO, IL 60601-3704

#7004 1160 0001 1379 4257

Rec'd 7/27/12

FRANK ROGERS
APOLLO DETECTIVE, INC.
1441 INVERNESS LN
SCHERERVILLE, IN 46375-2930

#7004 1160 0001 1379 4240

*Rec'd
7-27-12*

July 26, 2012

Denise Gatsoudis, Designated Agent of
NLRB

Date

Name

Denise Gatsoudis

Signature

EXHIBIT 3

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

APOLLO DETECTIVE, INC.

And

FRANK ROGERS, AN INDIVIDUAL

Case 13-CA-061510

And

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FRANK ROGERS
APOLLO DETECTIVE, INC.
1440 W 127TH ST
CALUMET PARK, IL 60827-6046

STEVEN M. STEWART, Counsel
LOCAL 1, SEIU
111E E WACKER DR STE 2500
CHICAGO, IL 60601-3704

FRANK ROGERS
APOLLO DETECTIVE, INC.
1441 INVERNESS LN
SCHERERVILLE, IN 46375-2930

Rec'd 7/27/12

*Rec'd
7-27-12*

July 26, 2012

Denise Gatsoudis, Designated Agent of
NLRB

Date

Name

Signature

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

APOLLO DETECTIVE, INC.

And

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FRANK ROGERS
APOLLO DETECTIVE, INC.
1440 W 127TH ST
CALUMET PARK, IL 60827-6046

STEVEN M. STEWART, Counsel
LOCAL 1, SEIU
111E E WACKER DR STE 2500
CHICAGO, IL 60601-3704

Rec'd 7/26/12

FRANK ROGERS
APOLLO DETECTIVE, INC.
1441 INVERNESS LN
SCHERERVILLE, IN 46375-2930

Rec'd 7-29-12

July 26, 2012

Denise Gatsoudis, Designated Agent of
NLRB

Date

Name

Signature

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

APOLLO DETECTIVE, INC.

And

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**LOCAL 1, SERVICE EMPLOYEES
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FRANK ROGERS
APOLLO DETECTIVE, INC.
1440 W 127TH ST
CALUMET PARK, IL 60827-6046

STEVEN M. STEWART, Counsel
LOCAL 1, SEIU
111E E WACKER DR STE 2500
CHICAGO, IL 60601-3704

FRANK ROGERS
APOLLO DETECTIVE, INC.
1441 INVERNESS LN
SCHERERVILLE, IN 46375-2930

July 26, 2012

Denise Gatsoudis, Designated Agent of
NLRB

Date

Name

Signature

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**STEVEN M. STEWART, COUNSEL
LOCAL 1, SEIU
(CA-61510 APOLLO DETECTIVE
[SCS&NOH] COMPLIANCE)**

2. Article Number (Copy from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **St Young** B. Date of Delivery **7/27/12**

C. Signature **[Signature]** Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7004 1160 0001 1379 4257

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**FRANK ROGERS
APOLLO DETECTIVE, INC.
(CA-61510 APOLLO DETECTIVE
[SCS&NOH] COMPLIANCE)**

2. Article Number (Copy from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery **7-27**

C. Signature **[Signature]** Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7004 1160 0001 1379 4233

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**FRANK ROGERS
APOLLO DETECTIVE, INC.
(CA-61510 APOLLO DETECTIVE
[SCS&NOH] COMPLIANCE)**

2. Article Number (Copy from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery **AUG 27 2012**

C. Signature **[Signature]** Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7004 1160 0001 1379 4240

PS Form 3811, July 1999 Domestic Return Receipt 102595-00-M-0952



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 13
209 S. LaSalle St., Suite 900
Chicago, IL 60604

August 16, 2012

VIA Certified Mail

Mr. Frank Rogers
Apollo Detective, Inc.
1440 W. 127th Street
Calumet Park, IL 60827-6046

Mr. Frank Rogers
Apollo Detective, Inc.
1441 Inverness Lane
Schererville, IN 46375-2930

Re: 13-CA-61510

Dear Mr. Rogers:

On July 26, 2012, the Region issued to Apollo Detective, In. and to you, as an individual, a Supplemental Compliance Specification and Notice of Hearing advising that, pursuant to Section 102.56 of the Board's Rules and Regulations, an answer to that Supplemental Compliance Specification was due to the Regional Office on or before August 16, 2012, or postmarked on or before August 15, 2012. Section 102.56(c) of the Board's Rules and Regulations states specifically that "If the respondent failed to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate."

The Supplemental Compliance Specification also advised that "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 supplemental compliance specification are true."

This letter is to advise you that as of August 16, 2012, the Regional Office has received no answer to the Supplemental Compliance Specification from either you or Apollo Detective, Inc. Unless an answer which conforms to the Board's Rules and Regulations Sections 102.56 (a) and (c) is filed by no later than the close of business on August 23, 2012, the Region intends to file a Motion for Default Judgment

August 16, 2012

recommending that the Board find that the allegations in the supplemental compliance specification are true. Sections 102.56(a) and (b) of the Board's Rules and Regulations state in relevant part that "[t]he answer to the specification shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with the appropriate power of attorney affixed, and shall contain the mailing address of the respondent" and "[t]he answer shall specifically admit, deny or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the response shall so state, such statement operating as a denial."

A copy of the Supplemental Compliance Specification which was served on July 26, 2012 is attached again for your review. If you have any questions, please contact me at 312-353-5564.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brigid Garrity".

Brigid Garrity
Field Attorney

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

APOLLO DETECTIVE, INC.

and

FRANK ROGERS, AN INDIVIDUAL **CASE 13-CA-061510**

and

**LOCAL 1, SERVICE EMPLOYEES
INTERNATIONAL UNION**

**SUPPLEMENTAL COMPLIANCE SPECIFICATION
AND
NOTICE OF HEARING**

The National Labor Relations Board issued its Decision and Order (358 NLRB No. 1) on January 31, 2012, ruling of the Acting General Counsel's Motion for Default Judgment on a consolidated complaint and compliance specification and directing Apollo Detective, Inc. (Respondent) to remit to Local 1, Service Employees International Union the union dues collected that Respondent failed to remit, \$5,348.00 with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987) compounded as prescribed in *Kentucky River Medical Center*, 256 NLRB No. 8 (2010).

As controversies exist over whether Frank M. Rogers (Rogers), An Individual, is jointly and severally liable to fulfill the remedial obligations of the Board's Order, the Regional Director of the National Labor Relations Board for Region 13, pursuant to authority duly conferred upon him by the Board, issues this Supplemental Compliance Specification and Notice of Hearing and alleges as follows:

I

At all material times until the cessation of its operations, Respondent was an Illinois corporation with an office and place of business at 1440 W. 127th Street, Calumet Park, Illinois 60827 and was engaged in the business of providing security services.

II

(a) At all material times, Rogers has been an officer and sole shareholder of Respondent Apollo Detective, Inc.

(b) At all material times, Rogers failed to adhere to corporate formalities in the management and direction of Respondent by: (1) failing to maintain arm's length relationship between Respondent and himself; (2) failing to follow the rules of corporate governance; (3) failing to segregate accounts; (4) by diverting corporate funds or assets

for non-corporate purposes; and (5) by commingling corporate and personal funds and money.

(c) Based on the conduct described above in subparagraph (b), the corporate veil shielding Rogers from personal liability arising from the Board's Order should be pierced.

III

The Regional Director reserves the right to amend any or all provisions of this Specification by inclusion of information not now known to the Regional Director.

IV

Summarizing the facts specified above, Rogers, as Respondent's officer and sole shareholder shall be jointly and severally liable for the obligations of the Respondent and for the to make whole remedy in the amount of \$5,348.00; which obligations owing to the Union under the Board Order, will be satisfied by payment to them, the amount of \$5,348.00, plus interest accrued to the date of payment pursuant to such Order.

ANSWER REQUIREMENT

Rogers and Respondent are notified that, pursuant to Section 102.56 of the Board's Rules and Regulations, they must file an answer to the supplemental compliance specification. The answer must be **received by this office on or before August 16, 2012, or postmarked on or before August 15, 2012.** Unless filed electronically in a pdf format, Rogers and Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.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 such 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 compliance specification is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature 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 be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

As to all matters set forth in the compliance specification that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial is not sufficient. See Section 102.56(b) of the Board's Rules and Regulations, a copy of which is attached. Rather, the answer must state the basis for any disagreement with any allegations that are within the Rogers or Respondent's knowledge, and set forth in detail Rogers and Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

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 supplemental compliance specification are true. If the answer fails to deny allegations of the supplemental compliance specification in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the supplemental compliance specification are true and preclude Rogers and/or Respondent from introducing any evidence controverting those allegations.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **Wednesday, September 26, 2012, at 10:00 a.m., at 209 South LaSalle Street, Chicago, Illinois**, 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, Rogers, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this supplemental compliance specification. 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 Chicago, Illinois this 26th day of July 2012.

/s/ Gail R. Moran
Gail R. Moran, Acting Regional Director
National Labor Relations Board
Region 13
209 South LaSalle Street, Suite 900
Chicago, Illinois 60604

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 13-CA-061510

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.

FRANK ROGERS
APOLLO DETECTIVE, INC.
1440 W 127TH ST
CALUMET PARK, IL 60827-6046

FRANK ROGERS
APOLLO DETECTIVE, INC.
1441 INVERNESS LN
SCHERERVILLE, IN 46375-2930

STEVEN M. STEWART, COUNSEL
LOCAL 1, SEIU
111E E WACKER DR STE 2500
CHICAGO, IL 60601-3704

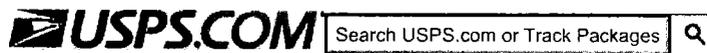
Run as of: 07/26/2012 11:07:28

Case Participant List

Case Name: Apollo Detective, Inc.

Case Number: 13-CA-061510

<p>Charged Party / Respondent</p>	<p>Charged Party / Respondent</p> <p>(Primary) FRANK ROGERS APOLLO DETECTIVE, INC. 1440 W 127TH ST CALUMET PARK, IL 60827-6046 Phone: (219)864-8425</p> <p>(Additional Service) FRANK ROGERS APOLLO DETECTIVE, INC. 1441 INVERNESS LN SCHERERVILLE, IN 46375-2930 Phone: (219)864-8425</p>
<p>Charging Party</p>	<p>Charging Party</p> <p>(Primary) STEVEN M. STEWART, Counsel LOCAL 1, SEIU 111E E WACKER DR STE 2500 CHICAGO, IL 60601-3704 Phone: (312)233-8748 Email: stewarts@seiul.org Fax: (312)233-8849</p>



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Track & Confirm

Get Email Updates Print Details

YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
70042890000072007260		Notice Left	August 18, 2012, 12:25 pm	SCHERERVILLE, IN 46375	Certified Mail™
<p>www.usps.com/redelivery or calling 800-ASK-USPS, or may pick up the item at the Post Office indicated on the notice. If this item is unclaimed after 15 days then it will be returned to the sender. Information, if available, is updated periodically throughout the day. Please check again later ></p>					
		Arrival at Unit	August 18, 2012, 7:27 am	SCHERERVILLE, IN 46375	
		Processed through USPS Sort Facility	August 17, 2012, 11:00 pm	GARY, IN 46401	
		Depart USPS Sort Facility	August 17, 2012	GARY, IN 46401	
		Processed through USPS Sort Facility	August 17, 2012, 10:24 pm	GARY, IN 46401	

Check on Another Item

What's your label (or receipt) number?

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Privacy Policy
Terms of Use
FOIA
No FEAR Act/EEO Data | ON USPS.COM
Government Services
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Customer Service
Site Index | ON ABOUT.USPS.COM
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EXHIBIT 5

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:

Frank Rogers
Apollo Detective, Inc.
1441 Inverness Lane
Scherverville, IN 46375-2930

CAG 1510 - GARRITY

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (*Printed Name*)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail

Registered Return Receipt for Merchandise

Insured Mail C.O.D.

4. Restricted Delivery? (*Extra Fee*)

Yes

2. Article Number
(*Transfer from ser*)

7004 2890 0000 7200 7260