

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5

AMERICAN CIVIL LIBERTIES UNION, INC.

and

CASES 05-CA-300367
05-CA-302762

NONPROFIT PROFESSIONAL EMPLOYEES
UNION (NPEU), INTERNATIONAL FEDERATION
OF PROFESSIONAL & TECHNICAL ENGINEERS
(IFPTE) LOCAL 70 A/W INTERNATIONAL
FEDERATION OF PROFESSIONAL & TECHNICAL
ENGINEERS, AFL-CIO, CLC

ANSWER

Respondent, American Civil Liberties Union, Inc., by its attorneys, as and for its Answer to the Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, hereby alleges:

1. (a) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1(a) of the Complaint, except admits that a copy of the charge in case 05-CA-300367 was served upon Respondent by U.S. Mail on or about July 29, 2022.

(b) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1(b) of the Complaint, except admits that a copy of the first amended charge in case 05-CA-300367 was served upon Respondent by U.S. Mail on or about August 25, 2022.

(c) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1(c) of the Complaint,

except admits that a copy of the second amended charge in case 05-CA-300367 was served upon Respondent by U.S. Mail on or about December 16, 2022.

(d) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1(d) of the Complaint, except admits that a copy of the charge in case 05-CA-302762 was served upon Respondent by U.S. Mail on or about September 7, 2022.

2. (a) Respondent admits the allegations contained in paragraph 2(a) of the Complaint.

(b) Respondent admits the allegations contained in paragraph 2(b) of the Complaint.

(c) Respondent admits the allegations contained in paragraph 2(c) of the Complaint.

(d) Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2(d) of the Complaint, except admits that during the period described in paragraph 2(b) it conducted certain business operations described above in paragraph 2(a) in Washington, D.C.

(e) Respondent admits the allegations contained in paragraph 2(e) of the Complaint

3. Respondent admits the allegations contained in paragraph 3 of the Complaint, except denies knowledge or information sufficient to form a belief as to the meaning of “all material times.”

4. Respondent admits the allegations contained in paragraph 4 of the Complaint, except denies knowledge or information sufficient to form a belief as to the meaning of “all material times.”

5. (a) Respondent admits the allegations contained in paragraph 5(a) of the Complaint.

(b) Respondent admits the allegations contained in paragraph 5(b) of the Complaint.

(c) Respondent admits the allegations contained in paragraph 5(c) of the Complaint.

6. Respondent denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint, except admits that at certain times its employee (b) (6), (b) (7)(C) lodged certain complaints with Respondent.

7. (a) Respondent denies the allegations contained in paragraph 7(a) of the Complaint.

(b) Respondent denies the allegations contained in paragraph 7(b) of the Complaint, except admits that on or about (b) (6), (b) (7)(C) 2022 Respondent discharged (b) (6), (b) (7)(C)

(c) Respondent denies the allegations contained in paragraph 7(c) of the Complaint.

(d) Respondent denies the allegations contained in paragraph 7(d) of the Complaint.

(e) Respondent denies the allegations contained in paragraph 7(e) of the Complaint.

8. Respondent denies the allegations contained in paragraph 8 of the Complaint.

9. Respondent denies the allegations contained in paragraph 9 of the Complaint.

10. Respondent denies the allegations contained in paragraph 10 of the Complaint.

AFFIRMATIVE AND SEPARATE DEFENSES

Assertion of an affirmative or other defense by Respondent does not constitute the assumption by Respondent of any burden of proof properly allocated to the General Counsel of the National Labor Relations Board or the Charging Party, as the case may be.

FIRST: The allegations of the Complaint fail to state a claim for which relief may be granted.

SECOND – The allegations of the Complaint are barred in whole or in part by the limitation of time in Section 10(b) of the Act.

THIRD – The Complaint must be dismissed, in whole or in part, because its employee (b) (6), (b) (7)(C) was terminated for just cause.

FOURTH – The Complaint should be deferred, in whole or in part, to the binding arbitration process in which the parties currently are engaged.

FIFTH – The Complaint must be dismissed because the General Counsel lacked the authority to prosecute the Complaint in that the President could not remove the predecessor General Counsel without cause during the four-year term to which he was appointed.

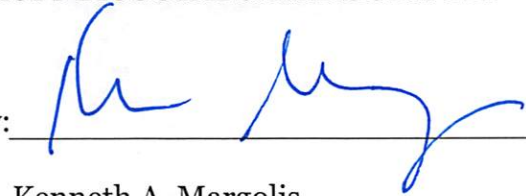
WHEREFORE, Respondent AMERICAN CIVIL LIBERTIES UNION, INC., requests that the Consolidated Complaint be dismissed in its entirety and that Respondent have such other, further and additional relief as may be warranted.

Dated: New York, New York.
March 27, 2023

Respectfully submitted,

KAUFF MCGUIRE & MARGOLIS LLP

By: _____



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Attorneys for Respondent
AMERICAN CIVIL LIBERTIES
UNION, INC.

CERTIFICATION OF SERVICE BY E-FILING & ELECTRONIC MAIL

The undersigned, an attorney admitted to practice before the Courts of the State of New York, affirms under penalty of perjury, that, on March 27, 2023, pursuant to the Board's e-filing rules, he caused a true and correct copy of the attached Answer to be served on behalf of Respondent upon the Charging Party and Counsel for the Charging Party via electronic mail at the following addresses designated for such purposes:

Emiliana Sparaco
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IFPTE Local 70
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Richard Bialczak, Esq,
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Dated: March 27, 2023
New York, New York

Kenneth A. Margolis
Kenneth A. Margolis