

**COPY**

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GILBERT SANCHEZ  
DISTRICT CLERK

IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS  
171ST JUDICIAL DISTRICT  
2008 FEB 28 PM 2 26

EL PASO COUNTY, TEXAS  
BY \_\_\_\_\_  
DEPUTY

STATE OF TEXAS, §  
§  
Plaintiff, §  
§  
VS. §  
§  
DECO-AKAL JV, DECO-AKAL §  
SERVICES, LLC, DECO, INC, AKAL §  
SECURITY, INC., INTERNATIONAL §  
UNION, SECURITY, POLICE AND FIRE §  
PROFESSIONALS OF AMERICA, and §  
LOCAL 725, §  
§  
Defendants. §

CAUSE NO. 2007-3372

**AGREED FINAL JUDGMENT AND  
PERMANENT INJUNCTION FOR UNION DEFENDANTS**

1. On this 21<sup>st</sup> day of February, 2008, came before this court the STATE OF TEXAS, Plaintiff, and International Union, Security, Police and Fire Professionals of America (SPFPA or Union), and its Local 725 chapter, hereinafter Union Defendants, in the above-entitled and numbered cause. The STATE OF TEXAS, by and through Texas Attorney General GREG ABBOTT, and Union Defendants, by and through their attorney of record, announced to the Court that all matters of fact and things in controversy between them had been fully and finally compromised and settled and presented to the Court this Agreed Final Judgment and Permanent Injunction ("Judgment"). By their duly authorized signatures, the parties stipulated to the Court the following: that they understand the terms of this Judgment; that they agree to the terms of this Judgment; that they have waived all rights of appeal from this Judgment; that they actively participated in the negotiations leading up to this Judgment and are aware of the duties placed upon them by it and are desirous and capable of carrying out those duties in full; that they acknowledge receipt of copies of this Judgment and have full and actual notice of the terms of this Judgment; that the issuance and service of a writ

of injunction are waived; that the terms of this Judgment are sufficiently detailed and specific to be enforceable by the Court in conformance with TEX.R.CIV.P. 683; and that this Judgment represents a compromise and settlement of all matters arising out of facts alleged by the STATE OF TEXAS in this cause. On February 1, 2008, the parties placed the terms of this Judgment orally on the record before the 117<sup>th</sup> Judicial District in Nueces County, Cause No. 2007-3961-B when resolving that matter, as well as the matter before this Court.

2. The parties do not contest the entry of this Judgment.

3. It appearing to the Court that all parties agree to the entry of this Judgment and that they have approved its entry by their duly authorized signatures and the signature of their respective attorneys below, the Court, upon the stipulations of the parties and after being fully advised in this matter, finds as follows:

A. That it has jurisdiction of the parties and subject matter of this suit;

B. That the settlement of this dispute is fair, reasonable, and just; and

C. That it would be in the best interests of the parties if the Court approved the settlement and rendered judgment accordingly.

4. Based on these findings, and having heard and considered the representations made by the parties, the Court is of the opinion that a permanent injunction should be issued as granted in this Judgment and that Plaintiff, STATE OF TEXAS, is entitled to recover of and from Union Defendants as set forth below.

#### **STIPULATIONS OF FACT**

5. For purposes of this Judgment, the parties stipulate as follows:

- A. International Union, Security, Police, and Fire Professionals of America (SPFPA) is a labor union within the meaning of TEX. LABOR CODE ANN. §§ 101.001, *et seq.* (the Act).
- B. SPFPA's Local 725 chapter is also a labor union within the meaning of the Act.
- C. Akal Security, Inc., a New Mexico corporation, is an employer within the meaning of the Act.
- D. Deco, Inc., a Minnesota corporation, is an employer within the meaning of the Act.
- E. Deco-Akal JV is a joint venture between Akal Security, Inc. and Deco, Inc. (Deco-Akal JV), that provides security services to the United States Government at the Government's El Paso Service Processing Center in El Paso, Texas (the SPC), and is an employer within the meaning of the Act.
- F. Union Defendants and Deco-Akal JV are parties to a collective bargaining agreement (the Agreement or CBA) which was made effective by its terms from November 11, 2003 through May 31, 2007. The Agreement has been extended by Deco-Akal JV, SPFPA, and Local 725 pending negotiations of a new collective bargaining agreement. The Agreement remains currently in effect.
- G. The CBA covers rates of pay, wages, hours of employment, and other terms and conditions of employment of the bargaining unit employees of Deco-Akal JV employed at the SPC.
- H. The CBA contains a union security clause in Article 2, Section 2.8, requiring that an employee either become a member of the Union, pay the Union a service fee, or donate an amount equal to the service fee to a charitable organization.
- I. As set forth in Plaintiff's First Amended Petition, Union Defendants required Deco-Akal JV to terminate or indefinitely suspend Mr. Juan Vielma without pay pending compliance of the union security clause contained in Article 2, Section 2.8 of the CBA.
- J. The State of Texas filed this lawsuit alleging violations of the TEXAS LABOR CODE ANN. §§ 101.001, *et seq.*

## INJUNCTIVE RELIEF

6. IT IS, THEREFORE, ORDERED that Union Defendants, their officers, agents, servants, employees and any other person acting in concert or participation with Union Defendants, are hereby enjoined from:

- A. Threatening the employees at the SPC in El Paso, Texas that they are subject to the union security clause in the Agreement, by which terms they are required to either join the Union, pay the Union a service fee, or donate an amount equal to the service fee to a charitable organization, and that a refusal to do so could result in the Union requesting their discharge;
- B. Threatening the employees at the SPC in El Paso, Texas with suspension or discharge unless they comply with the provisions of the Agreement and either join the Union, pay the Union a service fee, or donate an amount equal to the service fee to a charitable organization;
- C. Seeking suspension or discharge of employees at the SPC because they fail to comply with the union security clause in the Agreement; and
- D. In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by the Act.

7. IT IS FURTHER ORDERED that Union Defendants shall take the following affirmative action necessary to effectuate the policies of the Act:

- A. Refrain from enforcing Article 2, Section 2.8, of its collective bargaining agreement to the extent it requires compulsory unionism or other forms of payments from employees as a condition of employment;
- B. Agree not to appeal or overturn any decisions made by Deco-Akal JV to make Juan Vielma, or any other employees, whole for any loss of earnings and other benefits suffered as a result of the discrimination against him, in the manner set forth in the remedy section of this Judgment;
- C. Refrain from including language in any future Agreement covering the employees at the SPC in El Paso, Texas, and any successor agreement, that provision requiring an employee to become a member of the Union and pay union dues, pay an equivalent service fee to the Union, or donate an amount equal to the service fee to a charitable organization (customarily referred to as a union security clause) unless the Union has provided the STATE OF TEXAS, by and through the Attorney General of Texas,

with the requisite documentation to confirm that the location is an exclusive federal enclave;

- D. Within 21 days after entry of this Judgment, deliver to each current or former employee at the SPC in El Paso, Texas copies of the attached notice marked "Appendix A" in both English and Spanish on forms provided by the Office of the Attorney General, after being signed by the Union Defendants' authorized representative. Reasonable steps shall be taken by Union Defendants to ensure that the notices are received by each employee or former employee subject to the union security clause since November 11, 2003. Additionally, Union Defendants have agreed, within 21 days after the entry of this Judgment, to join in the employer, Ameritex's, posting at the IRS Building in Austin, Travis County, Texas, pursuant to the Memorandum of Understanding entered into between the STATE OF TEXAS and Ameritex, ensuring employees that the union security clause contained in their existing CBA will not be enforced and that similar language will not be included in future agreements without proof of federal enclave status. Although Union Defendants do not admit any liability or wrongdoing, this agreement resolves potential litigation against Union Defendants by the State of Texas for violations of Texas Right-to-Work laws for conduct similar to that contained in the pleadings filed in the matter before this Court and as described in the Memorandum of Understanding entered between the STATE OF TEXAS and Ameritex;
- E. Provide to the Office of Attorney General copies of Deeds and Acceptance of Cession for all facilities in the State of Texas where Union Defendants are the bargaining unit for employees and where union security clauses are in effect;
- F. Agree not to include union security clause language in future collective bargaining agreements with any and all employers in the State of Texas where no Deeds and Acceptance of Cession are available for the work site at issue to confirm exclusive federal enclave; and
- G. Within 28 days after the entry of this Judgment, file with the Office of the Attorney General a sworn certification of a responsible official on a form provided by the Office of the Attorney General attesting to the steps that Union Defendants have taken to comply with the terms of this Judgment.

#### **MONETARY JUDGMENT**

8. IT IS FURTHER ORDERED that the STATE OF TEXAS have and recover of and from Union Defendants a single sum of One Hundred Thousand Dollars (\$100,000.00): civil penalties in the amount of \$80,000.00 and attorneys' fees in the amount of \$20,000.00, for this

matter as well as the matter of *State of Texas v. Asset Protection & Security Services, L.P., et al.*, Cause No. 07-3961-B, to or for the benefit of the STATE OF TEXAS. Payment shall be made by cashier's check or money order made payable to "The Attorney General of Texas" with a notation of settlement for AG#s 072457302 (*State of Texas v. Asset, et al.*) and 072461171 (*State of Texas v. Deco-Akal JV, et al.*) on the check. The payment should be sent via courier to: Office of the Attorney General, Attention Ruth Ruggero Hughs, 209 West 14<sup>th</sup> Street, 8<sup>th</sup> Floor, Austin, Texas 78701, within 60 days of entry of the Judgment.

#### **GENERAL AND ADMINISTRATIVE PROVISIONS**

9. Preservation of Law Enforcement Action. This Judgment, and the Judgment in Cause No. 2007-3961-B, together settle all claims known to the Attorney General as of this date relating to acts and practices of the kind complained of in the pleadings in this case. Nothing herein precludes the STATE OF TEXAS from enforcing the provisions of this Judgment, or from pursuing any law enforcement action with respect to the acts or practices of Union Defendants not covered by this Judgment or any acts or practices conducted after the effective date of this Judgment.

10. Compliance With and Application of State Law. Nothing in this Judgment will be construed to limit the authority of the Attorney General to protect the interests of the STATE OF TEXAS or the people of the State. Accordingly, nothing herein relieves Union Defendants of their continuing duty to comply with applicable laws of the State of Texas nor constitutes authorization by the State for Union Defendants to engage in acts and practices prohibited by such laws. This Judgment shall be governed by the laws of the State of Texas.

11. Breach of Judgment and Venue. The parties agree that this Judgment may be used

as evidence in a subsequent proceeding in which any of the parties allege a breach of this Judgment. Failure to comply with this Judgment shall be prima facie evidence of violations of the TEXAS LABOR CODE ANN. § 101.001, *et seq.* This Judgment is entered into in the State of Texas, and shall in all respects be interpreted, enforced, and governed by the internal laws of the State of Texas. The language of this Judgment shall be construed as a whole, according to its fair meaning, and shall not be construed strictly for or against either of the parties. The parties agree that, in the event of any breach of this Judgment, venue of any claims arising out of this Judgment with respect to matters relating to the SPC Facility may be brought back before this Court. However, the parties agree that venue for breach of this Judgment regarding other locations in Texas shall be brought in the state district courts of Travis County, Texas.

12. Non-Admission. This Judgment shall not be construed as, or deemed to be evidence of, an admission or concession on the part of Union Defendants of any liability or wrongdoing whatsoever, which is hereby expressly denied and disclaimed by Union Defendants. Specifically, Union Defendants do not waive any defenses against Subchapter C claims or remedies in TEX. LABOR CODE § 101.001, *et seq.*

13. Past and Future Practices. Nothing herein constitutes approval or acquiescence by the STATE OF TEXAS of Union Defendants' past practices, current efforts to reform their practices, or any future practices which Defendants may adopt or consider adopting. The STATE OF TEXAS' decision to settle this matter does not constitute approval or imply authorization for any past, present, or future business practice.

14. No Change of Substantive Rights. Nothing herein shall be construed to waive, modify, or change any substantive rights, causes of action, or remedies of other persons or entities

against Union Defendants or of Union Defendants against other persons or entities with respect to the acts and practices covered by this Judgment.

15. Representations and Warranties. Union Defendants represent and warrant that they will implement the terms of this Judgment in good faith and will advise the STATE OF TEXAS, by and through the Attorney General of Texas, of any errors or omissions in the implementation discovered by them. Union Defendants acknowledge that no promises, representations or agreements have been made or entered into by the State other than what is contained in this Judgment.

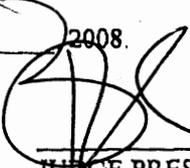
16. Assessment of Court Costs. Each party shall bear their own court costs, including any filing fees or other charges.

17. Execution of Judgment. This Judgment may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. Since counsel for Union Defendants and the Office of the Attorney General of Texas have had an opportunity to review and revise this Judgment, the rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Judgment.

18. Validity of Judgment. If any provision of this Judgment is held by final judgment to be invalid, illegal or unenforceable, such invalid, illegal or unenforceable provision shall be automatically modified, and, as so modified, to be included in this Judgment, such modification being made to the minimum extent necessary to render the provision valid, legal and enforceable. Notwithstanding the foregoing, however, if the modified provision concerns all or a portion of the essential consideration to be delivered under this Judgment by one party to the other, the remaining provisions of this Judgment shall also be modified to the extent necessary to equitably adjust the parties' respective rights and obligations hereunder.

19. Finality. After signing by this Court, this Judgment constitutes a final judgment. All relief not expressly granted is herein denied.

SIGNED on 2-26 2008.

  
\_\_\_\_\_  
JUDGE PRESIDING

**APPROVED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED:**

INTERNATIONAL UNION, SECURITY,  
POLICE AND FIRE PROFESSIONALS OF  
AMERICA (SPFPA)

FOR THE STATE OF TEXAS:

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By: Dennis Eck, for Luis Garcia  
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**APPENDIX A**  
**NOTICE TO EMPLOYEES FROM**  
**INTERNATIONAL UNION, SECURITY, POLICE AND FIRE**  
**PROFESSIONALS OF AMERICA AND LOCAL 725**

Posted by Judgment of the 171<sup>st</sup> State District Court  
Upon Request by the Office of the Attorney General of Texas

We have entered in to an Agreed Final Judgment and Permanent Injunction with the Office of the Attorney General that requires that we must post this Notice.

STATE 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 do anything that interferes with these rights. Specifically:

WE WILL NOT threaten employees at the El Paso Service Processing Center in El Paso, Texas (the SPC) that they are subject to the union security clause in the collective bargaining agreement (the Agreement) with Deco-Akal JV, by which terms they are required to either join the Union, pay the Union a service fee, or donate an amount equal to the service fee to a charitable organization, and that a refusal to do so could result in suspension or discharge.

WE WILL NOT threaten employees at the SPC with suspension or discharge unless they comply with the provisions of the Agreement requiring them to either join the Union, pay the Union a service fee, or donate an amount equal to the service fee to a charitable organization.

WE WILL NOT demand or request the suspension or discharge of employees at the SPC because they are either not members of the Union, have not paid the Union a service fee, or have not donated an amount equal to the service fee to a charitable organization.

WE WILL remove from any and all future collective bargaining agreements any language requiring bargaining unit members at the SPC to join the Union and pay Union dues, pay the Union a service fee, or donate an amount equal to the service fee to a charitable organization.

WE WILL immediately stop accepting Union contributions from any employee that certifies they no longer wish to make payments to the Union, and will also not require that a charitable contribution be made as a condition of employment.