

CAUSE NO. 07-3961-B

STATE OF TEXAS,
Plaintiff,

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IN THE DISTRICT COURT

vs.

ASSET PROTECTION & SECURITY
SERVICES, L.P., INTERNATIONAL
UNION, SECURITY, POLICE AND FIRE
PROFESSIONALS OF AMERICA and
LOCAL 727,
Defendant.

NUECES COUNTY, TEXAS

117TH JUDICIAL DISTRICT

**AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION AS TO ASSET
PROTECTION & SECURITY SERVICES, L.P. PARTY ONLY**

1. On this the 10 day of Aug, 2007, came before this court the STATE OF TEXAS, Plaintiff, and ASSET PROTECTION & SECURITY SERVICES, L.P., herein called Asset Protection Defendant or APSS, in the above-entitled and numbered cause (sometimes referred to herein as the Parties)¹. The STATE OF TEXAS, by and through Texas Attorney General GREG ABBOTT, and Asset Protection Defendant, by and through its 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

¹ International Union, Security, Police, and Fire Professionals of America and Local 727 are not parties to this Judgment.

be enforceable by the Court in conformance with TEX.R.CIV.P. 683; that this Judgment represents a compromise and settlement of all matters arising out of facts alleged by the STATE OF TEXAS against APSS in this cause.

2. It appearing to the Court that the settling 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 the settlement of this dispute is fair, reasonable, and just; and
- B. That it would be in the best interests of the parties if the Court approved that settlement and rendered judgment accordingly.

3. 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 Asset Protection Defendant as set forth below.

STIPULATIONS OF FACT

4. For purposes of this Judgment, the parties stipulate as follows:
- A. Asset Protection & Security Services, L.P., a Texas corporation, is an employer within the meaning of TEX. LABOR CODE ANN. §§ 101.001, et al. (the Act).
 - B. International Union, Security, Police, and Fire Professionals of America (SPFPA) and Local 727 (collectively the Union or Union Defendants) are a labor union and its local chapter within the meaning of the Act.
 - C. Asset Protection Defendant provides security services to the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas (also known as the Immigration and Customs Enforcement Port Isabel Service Processing Center).
 - D. The Union Defendants were the legally authorized and recognized bargaining agents for bargaining unit employees working at the Los Fresnos Detention Facility prior to

APSS assuming the contract for providing services at the Facility, and are currently the employees' duly authorized agents.

- E. In August 2005, SPFPA, Local 727 and Asset Protection Defendant executed a collective bargaining agreement (the Agreement or CBA) which was made effective from February 1, 2005, through September 30, 2008.
- F. The CBA covers rates of pay, wages, hours of employment, and other terms and conditions of employment of the bargaining unit employees of APSS employed at the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas.
- G. The CBA contains a union security clause in Article 27 requiring that a bargaining unit 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.
- H. Carlos Banuelos, by letter from Asset Protection Defendant dated December 8, 2006, at the Union's request, was advised he was required to comply with the union security clause in the CBA or be subject to termination.
- I. Banuelos complied with the requirements of the CBA and donated an amount equal to the mandatory union service fee to a charitable organization. But for the requirements of Article 27 of the CBA Banuelos would not have donated an amount equal to the service fee to a charitable organization. Banuelos remains employed at APSS. APSS has agreed to refund Banuelos the monies paid by him pursuant to Article 27 of the CBA as a condition of employment for fiscal year 2006-2007.
- J. In light of the legal issues contesting the validity of the union security clause, pursuant to the CBA, APSS has heretofore suspended compliance with the union security clause. In the event the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility becomes a federal enclave or is determined to be a federal enclave through a final adjudication by a court of competent jurisdiction, the injunctive requirements of this Judgment shall no longer be in effect.

INJUNCTIVE RELIEF

5. IT IS THEREFORE, ORDERED that Asset Protection Defendant, their officers, agents, servants, employees and any other person acting in concert or participation with Asset Protection Defendant, are hereby enjoined from:

- A. Threatening its employees employed at the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas that they are subject to the union security clause in the CBA, 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 their discharge;

- B. Threatening its employees employed at the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas with suspension or discharge unless they comply with the union security provisions of the CBA and join the Union, pay the Union a service fee, or donate an equal amount to a charitable organization;
- C. Honoring any request by the Union that it suspend or discharge any bargaining unit employee employed by the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas because they fail to comply with the union security clause in the CBA;
- D. Enforcing Article 27 of its current collective bargaining agreement with the Union to the extent it requires compulsory union membership or other forms of payments from employees as a condition of employment; and
- E. In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights to be free from compulsory union membership.

6. IT IS FURTHER ORDERED that Asset Protection Defendant shall take the following affirmative action necessary to effectuate the policies of the Act:

- A. Refrain from enforcing Article 27 of its current collective bargaining agreement with the Union to the extent it requires compulsory unionism or other forms of payments from employees as a condition of employment;
- B. Expunge from its records any reference to the correspondence to Carlos Banuelos relating to any obligation to comply with the union security clause in the CBA covering the bargaining unit employees employed at the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas, and to provide him with a written notice of said expunction and inform him that any failure or refusal to comply with the union security clause in the CBA will not be used as a basis for personnel or other actions against him;
- C. Within 14 days after the date of this Judgment, post at the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas copies of the attached notice marked "Appendix A" in both English and Spanish. Copies of the notice, on forms provided by the Office of the Attorney General, after being signed by APSS' authorized representative, shall be posted by APSS and maintained for 60 consecutive days in conspicuous places including all places where notices to employees and members are customarily posted. Reasonable steps shall be taken by APSS to ensure that the notices are not altered, defaced, or covered by any other material. In the event that during the 60-day posting period APSS goes out of business or no longer has the contract for the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview,

Texas facility involved in these proceedings, APSS shall duplicate and mail, at their own expense, a copy of the notice to all current employees employed by APSS at the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas, at any time since August 1, 2005; and

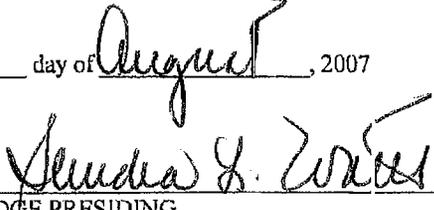
D. Within 21 days after the date of this Judgment, file with the Office of the Attorney General a sworn certification of a responsible official attesting to the steps that Asset Protection Defendant has taken to comply with the terms of this Judgment.

7. All costs of court expended or incurred in this cause are adjudged against the party incurring same.

8. After signing by the Court, this agreement constitutes final judgment.

9. All remedies not expressly granted herein are denied.

SIGNED AND ENTERED this 10 day of August, 2007



JUDGE PRESIDING

APPROVED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED:

ASSET PROTECTION & SECURITY
SERVICES, L.P.



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APPENDIX A

NOTICE TO EMPLOYEES

Posted by Judgment of the 117th State District Court
Upon Request by the Office of the Attorney General of Texas

The Office of the Attorney General of Texas has found that those provisions in the Collective Bargaining Agreement with the Union requiring union membership or the payment of fees and dues as a condition of employment violates State labor law and we have entered in to an Agreed Final Judgment and Permanent Injunction that requires that we post and obey 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 our employees employed at the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas that they are subject to the union security clause in the collective bargaining agreement (the Agreement) we have with the International Union, Security, Police, and Fire Professionals of America (SPFPA) and Local 727 (the Union), 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.

WE WILL NOT threaten our employees employed at the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas 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 suspend or discharge our employees employed at the Bureau of Immigration and Customs Enforcement, Los Fresnos Detention Facility at Bayview, Texas 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 NOT enforce Article 27 of the Agreement, to the extent it requires Union membership or payments as a condition of employment.

STATE OF TEXAS
COUNTY OF NUECES

The above and foregoing is a true and correct copy as the same appears on file and/or recorded in the appropriate records of Nueces County, Texas.

Thereby certified on _____

August 10, 2007



PATSY PEREZ
NUECES COUNTY DISTRICT CLERK
CLERK OF THE DISTRICT AND COUNTY COURTS AT LAW