

## ***Unfair Labor Practices***

### **Lockheed to Pay 19 Laid-Off Employees \$1.14 Million Under Settlement With IAM**

Lockheed Martin Services and the International Association of Machinists earlier this month entered into a [settlement agreement](#) in which the company will give 19 air traffic control specialists, who were laid off for their organizing activities, \$1.14 million in back pay and severance.

Based on the settlement agreement, the regional director of National Labor Relations Board Region 5 in Baltimore, Md., Oct. 14 approved the IAM's withdrawal of unfair labor practice charges filed against Lockheed involving the layoffs. The regional director did not have to sign off on the non-board agreement.

NLRB Regional Director Wayne Gold told BNA Oct. 28 that IAM April 1 filed ULP charges alleging that Lockheed Martin violated Section 8(a)(1) and 8(a)(3) of the National Labor Relations Act by laying off approximately 19 employees and selecting which employees would be laid off.

The charges were filed during an organizing drive by IAM among more than 800 Lockheed air traffic control specialists, who provide weather briefings, in-flight radio communications, flight planning, and search-and-rescue support, primarily to private and noncommercial airline pilots. The air traffic specialists work in three main Automated Flight Service Station (AFSS) hubs and 12 sites in the United States.

In a mail ballot election tallied April 13, the AFSS's voted 362-341 for the IAM, and the union was certified as the bargaining agent April 22, Gold said.

### **RIF Implemented in December 2008**

According to the IAM charge, beginning in December 2008 Lockheed Martin implemented a reduction in force that affected at least five of its facilities in Lansing, Mich., Columbia, Mo., Kankakee, Ill., Oakland, Calif., and Englewood, Colo. It further alleged that on or about Jan. 20, 2009, the company selected the employees who would be RIFed because of their activities on behalf of the Machinists.

On July 23, Gold made a determination on the charges, finding no merit in the charge that the layoffs were discriminatively motivated because the company was shrinking the number of facilities it was operating. He did determine, however, that the company violated the act in the selection of the employees who would be laid off, Gold told BNA.

Gold authorized a complaint based on the findings, and then met with the parties in mid-August to discuss his findings. After that meeting, further settlement discussions began between the parties resulting in the October agreement, he said.

Under the settlement agreement, which was signed by the company Oct. 14 and by the union Oct. 11, Lockheed, which did not admit any violation of law or contract, agreed to provide one-time, lump-sum payments, ranging from \$33,096 to \$65,856, representing back pay for the period between the termination of each worker's employment and Sept. 30, 2009, less any interim earnings. Most of the terminations occurred on Feb. 7 and Feb. 9.

### **Workers Can Select Recall List or Severance**

In addition, the company agreed to give the former workers the choice of being placed on a preferential recall list for 12 months or receiving severance benefits, ranging from \$3,480 to \$11,289.

Those who choose to be placed on the recall list will have recall rights to the facility where they worked immediately prior to the termination. For those whose former facility has closed, recall rights will be provided at the applicable hub location. Those employees will be recalled in seniority order after bargaining unit employees who may have been laid off at that facility after Aug. 30, 2009, according to the agreement.

Those who accept the severance benefits will be required to sign a waiver of recall rights as well as the company's standard release of claims.

The agreement also provided that IAM would promptly request withdrawal of the ULP charges with prejudice. IAM also agreed it would not file or support any new ULP charge, grievance, lawsuit, or other action relating to the allegations set forth in the charges.

The IAM has been trying to organize the AFSS's for several years and the most recent election was the second the union was involved in.

In 2005, the Federal Aviation Administration awarded Lockheed Martin a 10-year contract to operate its automated flight service stations ([22 DLR A-11, 2/3/05](#)). At the time the contract was awarded, AFSS employees were represented by an independent union, the National Association of Air Traffic Specialists, or NAATS ([60 DLR A-15, 3/29/06](#)). Lockheed and NAATS in early 2006 agreed to conduct an election to determine whether the new Lockheed employees wished to be represented by NAATS. In June 2006, bargaining unit members voted 598-431 to reject representation by the union ([128 DLR A-9, 7/5/06](#)).

Shortly after the NAATS vote, discussions began between some AFSS employees and IAM organizers, and IAM began a full fledged organizing drive in July 2007. In an election held in April 2008, workers rejected IAM by a vote of 441-440 ([91 DLR A-12, 5/12/08](#)).

One year later, the union filed for another election and was certified as the bargaining agent April 22.

*By Michelle Amber*

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*The settlement agreement may be accessed at <http://op.bna.com/dlrcases.nsf/r?Open=mamr-7xas9m>.*