

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELAINE L. CHAO,
SECRETARY OF LABOR,
UNITED STATES DEPARTMENT OF LABOR,

Plaintiff,

v.

Civil Action

No. _____

CALEB A. GRAY-BURRISS, 3838 Carpenter
Street SE, Washington DC 20020; NATIONAL
ASSOCIATION OF SPECIAL POLICE
AND SECURITY OFFICERS,
1101 30th Street NW, Washington DC, 20020;
NATIONAL ASSOCIATION OF
SPECIAL POLICE
AND SECURITY OFFICERS PENSION FUND,
1101 30th Street NW, Washington DC, 20020;
NATIONAL ASSOCIATION OF
SPECIAL POLICE
AND SECURITY OFFICERS HEALTH PLAN
AND TRUST,
1101 30th Street NW, Washington DC, 20020;
THE HARBOR BANK OF
MARYLAND, 6820 Riverdale Road,
Riverdale, MD 20737;
DECO SECURITY SERVICES, 14275 Golf
Course Drive, Suite 250, Baxter, MN 56425;
SECTEK, INC., 11413 Isaac
Newtown Square, Reston, VA 20190; and
AMERICAN SECURITY PROGRAMS, INC.
22900 Shaw Road, No. 101-1, Dulles, VA 20166,

Defendants.

COMPLAINT

of ERISA by, among other means, the filing and prosecution of claims against fiduciaries and others who commit violations of ERISA.

6. At all relevant times, defendant NASPSO, has been located at 1101 30th Street NW, Washington DC, 20020.

7. At all relevant times, defendant Caleb A. Gray-Burriss, who resides at 3838 Carpenter Street SE, Washington D.C. 20020, has been the Executive Director and Secretary/Treasurer of NASPSO.

8. Burriss controls the day-to-day operations of NASPSO and has ultimate responsibility for its actions. Burriss and NASPSO have sole responsibility for administering the Pension Plan and managing its assets. They have exercised discretionary authority or discretionary control respecting management of the Pension Plan or exercised any authority or control respecting the management or disposition of Pension Plan assets. They are fiduciaries with respect to the Pension Plan within the meaning of Section 3(21)(A) and parties in interest and service providers within the meaning of Sections 3(14) (A) and (B) of ERISA, 29 U.S.C. §§ 1002(21)(14) and 1002(14) (A) and (B).

9. Burriss, NASPSO and Russell Stephens ("Stephens") are fiduciaries of the Health Plan. NASPSO is responsible for appointing, removing, and monitoring the union trustee of the Health Plan. The Health Plan provides that the union trustee, Burriss, and the employer trustee, Russell Stephens, are the committee that runs the Plan. The trustees are to take and hold any contributions to the Plan and forward such contributions to a third party administrator for the

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GENERAL ALLEGATIONS

14. NASPSO is a Washington D.C.-based union that represents security guards in the metropolitan Washington D.C. area.

15. There are approximately eight hundred members in NASPSO. NASPSO has collective bargaining agreements with approximately ten employers.

16. Burriss established the NASPSO Pension Plan on or about June 2004, and since that time Burriss and NASPSO have been solely responsible for the administration and management of the Pension Plan and its assets. There is no written Pension Plan document.

17. NASPSO opened a Pension Plan account with Harbor Bank on or about June 16, 2004. The Pension Plan account is in the name of the "National Association of Special Police & Security Officers Pension Fund" (Acct. No. 1100058674).

18. Harbor Bank is the custodian of the assets belonging to the Pension Plan.

19. Three employers, SecTek, Deco, and Ares Group, Inc. ("Ares"), executed contracts with the federal government under the Service Contract Act. The agreements set the minimum hourly wage rate and fringe benefit rate employers must pay to employees working under federal contract.

20. The employers have also signed CBAs obligating them to pay the Pension Plan a set amount per hour worked. The employers have chosen to pay their required fringe benefit by paying into the Pension Plan.

Dues account (Acct. No. 1100058633). Most recently, on July 18, 2006, Burriss transferred \$2,500 from the Pension Plan account to the Membership Union Dues account.

27. Burriss and NASPSO also have discretion and control over the NASPSO Health Plan and its assets.

28. Burriss established and became the union trustee of the NASPSO Health Plan on January 1, 2006. Russell Stephens is the employer trustee. Stephens is president of Security Assurance Management, Inc. The Health Plan is intended to provide health and related benefits for union member employees. NASPSO is responsible for appointing, removing, and monitoring the trustees of the Health Plan. The Health Plan provides that the union trustee, Burriss, and the employer trustee, Russell Stephens, are the committee that runs the Plan. The trustees are to take and hold any contributions to the Plan. The trustees then forwards health Plan contributions to a third party administrator, FCE Benefits Administrators ("FCE"), for payment of health claims.

29. SecTek and American Security are the two employers that currently participate in and contribute to the Health Plan.

30. FCE is a third party administrator located in Burlingame, California. FCE, under the terms of its agreement with NASPSO, performs numerous delineated duties with respect to the administration of the Health Plan.

31. SecTek and American Security generally forward their Health Plan contributions to NASPSO on a monthly basis. Burriss is responsible for

2. Failed to discharge their fiduciary duties with respect to the Pension Plan solely in the interest of the participants and beneficiaries and for the exclusive purpose of providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the Pension Plan, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A);
3. Failed to discharge their fiduciary duties with respect to the Pension Plan with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B);
4. Caused the Pension Plan to engage in transactions which they knew or should have known, constituted the direct or indirect transfer of Pension Plan assets to, or use of Pension Plan assets, by or for the benefit of, parties in interest in violation of ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D);
5. Dealt with assets of the Pension Plan in their own interest or for their own account, in violation of ERISA § 406(b)(1), 29 U.S.C. § 1106(b)(1); and
6. Failed to bond every fiduciary and every person who handles funds, in violation of ERISA § 412(a), 29 U.S.C. § 1112(a).

PRAYER FOR RELIEF

WHEREFORE, the Secretary prays that this Court:

1. Issue a temporary restraining order and a preliminary injunction:

- beneficiaries of the Pension Plan, and of all transfers, payments, or expenses incurred or paid in connection with the Pension Plan and employer contributions to the Pension Plan;
- f. Ordering defendant Deco Security Services not to forward Pension Plan contributions to Burriss and NASPSO, but instead forward Pension Plan contributions directly to the independent fiduciary.
- g. Ordering defendants SecTek and American Security not to forward Health Plan contributions to Burriss and NASPSO, but instead forward Health Plan contributions directly to the current third party administrator of the Health Plan, FCE;
- h. Ordering the defendants to post a bond or other security in an amount adequate to secure the participants and beneficiaries of the Pension Plan against any past or future losses resulting from their fiduciary misconduct;
- i. Freezing all assets of defendant Burriss and NASPSO, and enjoining them and their fiduciaries, agents, employees, service providers, depositories, banks, accountants, attorneys, and any other party acting in concert with or at the direction of them from expending, transferring, hypothecating, secreting, or otherwise disposing of any assets, until such time as all employee benefits and costs of the Independent Fiduciary have been paid and all unjust enrichment disgorged; and

- appropriate actions for the rehabilitation or liquidation of the Pension Plan and distribution of benefits to the Pension Plan's participants and beneficiaries;
- e. Ordering defendants Burriss and NASPSO, their agents, employees, service providers, banks, accountants, and attorneys to provide the Secretary and independent fiduciary all of the books, documents, and records relating to the finances and administration of the entities, and order the defendants to make an accounting to the Secretary and the independent fiduciary of the participants and beneficiaries of the Pension Plan, and of all transfers, payments, or expenses incurred or paid in connection with the Pension Plan and employer contributions to the Pension Plan;
- f. Enjoin defendants Burriss and NASPSO from coercing, intimidating, interfering with or attempting to coerce, intimidate or interfere with the independent fiduciary or with the agents, employees or representatives of the independent fiduciary and be ordered to cooperate fully with the independent fiduciary;
- g. Ordering defendants Burriss and NASPSO to restore any losses caused by their fiduciary misconduct or their knowing participation in fiduciary misconduct by a fiduciary as alleged in this Complaint;
- h. Ordering defendants Burriss and NASPSO to disgorge any funds which they have obtained in violation of ERISA's fiduciary duties or their knowing participation in fiduciary misconduct by a fiduciary as alleged in this

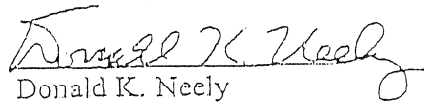
1. Awarding plaintiff, Secretary of Labor, the costs of this action.

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U.S. DEPARTMENT OF LABOR

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