

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**

**GUITAR CENTER STORES, INC.**

**and**

**Cases 13-CA-130446  
13-CA-140542  
13-CA-143904  
28-CA-130447  
28-CA-143323  
02-CA-130838  
02-CA-130443**

**RETAIL, WHOLESALE AND DEPARTMENT  
STORE UNION, RWDSU, UNITED FOOD AND  
COMMERCIAL WORKERS**

**ORDER CONSOLIDATING CASES, CONSOLIDATED  
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Case 13-CA-130446 and Cases 13-CA-140542, 13-CA-143904, 28-CA-130447, 28-CA-143323, 02-CA-130838 and 02-CA-130443, which are based on charges filed by Retail, Wholesale and Department Store Union, RWDSU, United Food and Commercial Workers (“Charging Party” or “Union”), against Guitar Center Stores, Inc. (“Respondent”) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq. and Section 102.15 of the Board’s Rules and Regulations, and alleges Respondent has violated the Act as described below.

**I.**

(a) The charges in the above cases were filed by the Charging Party as set forth in the following table, and served upon the Respondent on the dates indicated below by U.S. mail.

<i>Case No.</i>	<i>Amended</i>	<i>Date Filed</i>	<i>Date Served</i>
<b>13-CA-130446</b>		June 10, 2014	June 10, 2014
	1 <sup>st</sup> amended	January 12, 2015	January 12, 2015
	2 <sup>nd</sup> amended	June 15, 2015	June 16, 2015
<b>13-CA-140542</b>		November 7, 2014	November 10, 2014
<b>13-CA-143904</b>		January 6, 2015	January 6, 2015
<b>28-CA-130447</b>		June 10, 2014	June 10, 2014
	1 <sup>st</sup> amended	January 12, 2015	January 14, 2015
	2 <sup>nd</sup> amended	June 15, 2015	June 16, 2015
<b>28-CA-143323</b>		December 22, 2014	December 22, 2014
<b>02-CA-130443</b>		June 10, 2014	June 11, 2014
	1 <sup>st</sup> amended	January 12, 2015	January 15, 2015
	2 <sup>nd</sup> amended	June 15, 2015	June 16, 2015
<b>02-CA-130838</b>		June 16, 2014	June 17, 2014

## II.

(a) At all material times, Respondent has been a corporation with an office and place of business in Chicago, Illinois; Manhattan, New York; and Las Vegas, Nevada (collectively, Respondent's facilities); and has been engaged in the retail sale of musical instruments and related products.

(b) In conducting its operations at Respondent's facilities as described above in paragraph II(a) during the past 12-month period, Respondent derived gross revenues in excess of \$500,000.

(c) During the period of time described above in paragraph II(b), Respondent sold and shipped from Respondent's Chicago facility products, goods and materials valued in excess of \$5,000 directly to points outside the State of Illinois.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

## III.

At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

#### IV.

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act):

Dennis Haffeman	-	Executive Vice President of Human Resources
Michael Pendleton	-	Senior Vice President & General Counsel
Gina Villavicencio	-	Vice President of Human Resources

#### V.

About September 22, 2014, Respondent, via its internal website/electronic bulletin board “Backstage,” threatened employees with reduced benefits because of their union membership or affiliation.

#### VI.

(a) At various times during the months of July 2013 to present, Respondent discriminatorily denied granting its Phase 3 wage plan to employees represented by the Union in the Units described below in paragraph VII(a) (“the Union employees”).

(b) About September 22, 2014, Respondent denied the Union employees the opportunity to participate in company-wide contests.

(c) Respondent engaged in the conduct described above in paragraph VI (a) and (b) because employees joined and assisted the Union, and to discourage employees from engaging in union activities.

#### VII.

(a) The following employees of Respondent (the “Chicago Unit,” “Manhattan Unit,” and “Las Vegas Unit,” respectively) constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

##### **CHICAGO**

All full-time and regular part-time operations employees, commissioned sales employees in the guitar, drum, hi-tech, and accessories departments, department managers, assistant managers, Elite sales employees and the Platinum Room Manager employed at the Employer's facility currently located at 2633 North Halsted, Chicago, IL 60614; but excluding all other employees, G.C. Pro sales employees, sales training managers, operations managers, store managers, professional employees, guards and supervisors as defined by the Act.

##### **MANHATTAN**

All full-time and regular part-time commissioned sales employees in the guitar, drum, hi-tech, and accessories departments, department managers, assistant managers, assistant to manager and platinum room manager employed by the

Employer at its facility located at 25 West 14<sup>th</sup> Street, New York, NY; but excluding all other employees including the G.C. pro, employees in the operations and support departments, sales training managers, operations managers, store managers, store merchandisers, and guards, and professional employees and supervisors as defined in the Act.

### **LAS VEGAS**

All full-time and regular part-time commissioned sales associates, department managers, assistant managers, and platinum room managers employed by the Employer at its Las Vegas, Nevada, facility; but excluding all other employees, including the G.C. professional employees, sales managers, operations managers, general manager, employees in the operations and support departments, sales training managers, operations associates, guards, and supervisors as defined in the Act.

(b) On October 24, 2013, the Union was certified as the exclusive collective-bargaining representative of the Chicago Unit.

(c) On June 3, 2013, the Union was certified as the exclusive collective-bargaining representative of the Manhattan Unit.

(d) On November 14, 2013, the Union was certified as the exclusive collective-bargaining representative of the Las Vegas Unit.

(e) At all times since the dates set forth in paragraph VII(b)-(d), based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of each of the Units.

## **VIII.**

(a) At various times during the months of July 2013 to present, Respondent and the Union met for the purposes of negotiating initial collective-bargaining agreements for the Union employees with respect to wages, hours, and other terms and conditions of employment.

- (b) During the time period described above in paragraph VIII (a), Respondent:
- i. made regressive bargaining proposals;
  - ii. bargained with no intention of reaching an agreement;
  - iii. made unilateral changes to mandatory subjects of bargaining;
  - iv. failed to make proposals for extended periods of time;
  - v. implemented benefits in non-Union facilities which were in close physical proximity to Respondent's Union facilities;
  - vi. refused to discuss certain wage plans with the Union during bargaining;

(c) On about September 22, 2014, Respondent unilaterally and without notice to the Union changed its policy on which employees are allowed to participate in company-wide sponsored contests.

(d) By its overall conduct, including the conduct described above in paragraphs VIII (b) and (c), Respondent has failed and refused to bargain in good faith with the Union as the exclusive collective-bargaining representative of the named Units.

IX.

(a) About June 10, 2014, Respondent withdrew its recognition of the Union as the exclusive collective-bargaining representative of the Manhattan Unit.

(b) About November 18, 2014, Respondent withdrew its recognition of the Union as the exclusive collective-bargaining representative of the Las Vegas Unit.

X.

By the conduct described above in paragraph V, Respondent has been interfering with, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

XI.

By the conduct described above in paragraph VI Respondent has been discriminating in regard to terms or conditions of employment, of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

XII.

By the conduct described above in paragraphs VIII and IX Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive, collective-bargaining representative of its employees in violation of Sections 8(a)(1) and (5) of the Act.

XIII.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**REMEDY**

As part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an Order requiring Respondent to: (1) post in all its Guitar Center Stores any Notice to Employees that may issue in this proceeding; (2) electronically post the Notice to Employees for employees at all its plants if Respondent customarily uses electronic means such as an electronic bulletin board, e-mail, website, or intranet to communicate with those employees; and (3) send a copy of any Board Order and Notice to Employees to all its supervisors at the following store locations: 25 West 14th Street, New York, NY 10011; 6587 Las Vegas Boulevard, #B172, Las Vegas, NV 89119; and 2633 North Halsted Street, Chicago, IL 60614-2301.

As part of the remedy for Respondent's unfair labor practices alleged above in paragraphs VIII and IX, the General Counsel seeks an Order requiring Respondent to bargain in good faith

with the Union, on request, for the period required by *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962), as the recognized bargaining representative in the appropriate unit.

As part of the remedy for Respondent's unfair labor practices alleged above in paragraphs VIII and IX, the General Counsel seeks an Order requiring Respondent to reimburse the Union for its costs and expenses incurred in collective bargaining for all negotiations from July 2013 forward, including, for example, reasonable salaries, travel expenses, and per diems.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before August 7, 2015, or postmarked on or before August 6, 2015**. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

### **NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on **October 19, 2015, 11:00 a.m. at 209 South LaSalle Street, Suite 900, Chicago, Illinois** and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: July 24, 2015

/s/ *Peter Sung Ohr*

PETER SUNG OHR  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 13  
209 S La Salle St Ste 900  
Chicago, IL 60604-1443

Attachments

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**

**GUITAR CENTER STORES, INC.**

**And**

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**RETAIL, WHOLESALE AND DEPARTMENT  
STORE UNION, RWDSU, UNITED FOOD AND  
COMMERCIAL WORKERS**

**AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 24, 2015, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

Michael Cooper , Attorney at Law  
Jackson Lewis, P.C.  
666 Third Avenue  
New York, NY 10017-4011

**REGULAR MAIL**

Guitar Center Stores, Inc.  
2633 N Halsted St  
Chicago, IL 60614-2301

**CERTIFIED MAIL, RETURN RECEIPT  
REQUESTED**

Guitar Center Stores, Inc.  
25 West 14<sup>th</sup> Street  
New York, NY 10011

**CERTIFIED MAIL, RETURN RECEIPT  
REQUESTED**

Guitar Center Stores, Inc.  
6587 Las Vegas Boulevard, #B172  
Las Vegas, NV 89119

**CERTIFIED MAIL, RETURN RECEIPT  
REQUESTED**



Liz Vladeck , ESQ.  
Cary Kane LLP  
1350 Broadway Rm 1400  
New York, NY 10018-0925

**REGULAR MAIL**

Retail, Wholesale and Department Store  
Union, RWDSU, United Food and  
Commercial Workers  
30 East 29th Street  
New York, NY 10016

**CERTIFIED MAIL**

July 24, 2015

Denise Gatsoudis, Designated Agent of  
NLRB

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Date

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Name

*/s/ Denise Gatsoudis*

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Signature

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**NOTICE**

Cases 13-CA-130446  
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02-CA-130838  
02-CA-130443

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Michael Cooper , Attorney at Law  
Jackson Lewis, P.C.  
666 Third Avenue  
New York, NY 10017-4011

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2633 N Halsted St  
Chicago, IL 60614-2301

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25 West 14<sup>th</sup> Street  
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6587 Las Vegas Boulevard, #B172  
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Liz Vladeck , ESQ.  
Cary Kane LLP  
1350 Broadway Rm 1400  
New York, NY 10018-0925

Retail, Wholesale and Department Store  
Union, RWDSU, United Food and  
Commercial Workers  
30 East 29th Street  
New York, NY 10016

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in

**evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.

- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

### **III. AFTER THE HEARING**

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.

- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.

- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.