

IN THE MATTER OF ARBITRATION BETWEEN:

NATIONAL COUNCIL OF HUD)
 LOCALS 222, AFGE, AFL-CIO,)
)
 Union,)
)
 v.)
)
 U.S. DEPARTMENT OF HOUSING)
 AND URBAN DEVELOPMENT,)
)
 Agency.)
)

Issue: Non-compliance with Settlement Agreement of September 28, 2005

Settlement Proposal – Non-compliance with Settlement Agreement

1. **Overtime Damages.** The Agency shall pay the difference between Capped and Uncapped Overtime for Ordered and Approved Overtime earned by Grievants Evan Chuang, Pauline Magette, Linda G. Robertson, Lisa Stewart, and Lisa Wimbush from the date at which the Settlement Agreement of September 28, 2005 became effective through Pay Period 10 of 2006. This payment shall be made within two pay periods of execution of this Agreement. The Agency agrees to pay each of the above named Grievants full liquidated damages, equal to the amount of the above referenced payment. This payment shall be made within two pay periods of execution of this Agreement. The payments shall be separate for tax purposes. NFC will be notified that FICA should not be deducted from liquidated damages payments.
2. **Compensatory Time Damages.** The Agency shall pay the difference between Basic Rate and Uncapped Overtime for all GS-10 and below employees who were reclassified as a result of the Settlement Agreement of September 28, 2005 and who were denied a choice of overtime pay versus Compensatory Time solely at their election, from the date at which the Settlement Agreement of September 28, 2005 became effective through Pay Period 10 of 2006. This payment shall be made within four pay periods from the date that the identity of the affected Grievants is determined. The Agency agrees to pay each of the above named Grievants "half" (50%) liquidated damages, equal to 50% of the amount of the above referenced payment. This payment shall be made within four pay periods of execution of this Agreement. The payments shall be separate for tax purposes. NFC will be notified that FICA should not be deducted from liquidated damages payments. If the compensatory time payment referenced in this paragraph is made after four pay periods from the date that the identity of the affected Grievants is determined, it shall include full liquidated damages rather than the half liquidated damages referenced herein.


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3. The Parties agree to form a Union-Management working group, and to provide additional Official Time for the Union participants. The Union has provided to Management approximately 67 Affidavits in support of its contention that those employees were not given a choice of comp time or overtime. The Union shall have 30 days from the date of execution of this Agreement to attempt to acquire additional affidavits and to submit those to the Agency. The Agency will have 30 days to respond and identify affidavits in dispute and the Union-Management working group will resolve any disputes, as set forth above. If the Working Group is unable to in good faith resolve all disputes, any unresolved disputes shall be resolved by paying the claimants who submitted sworn affidavits compensatory damages, but no liquidated damages.
4. The Agency shall pay up to five (5) days of fees incurred by Arbitrator Sean Rogers in determining compliance with the Settlement Agreement of September 28, 2005, except that the Agency and the Union shall split the Arbitrator's fee incurred on November 8, 2006. The parties will split the fees incurred by the Court Reporter for all hearings related to determining compliance with the Settlement Agreement of September 28, 2005. *HUD will bear cost of court reporter for December 12, 2006 except B/E, A/E, M/J, etc.*
5. The parties will prepare a joint statement to Bargaining Unit employees and Management that explains employee and management rights and responsibilities for ~~GS-10 and below FLSA non-exempt employees.~~ *Page 111 m/j*
6. As part of a global settlement, the Agency agrees to provide FLSA Training to all managers and Supervisors. The Union shall be present in that training, or in the alternative shall be given copies of all training materials used in that training.
7. The Agency shall appoint an employee to monitor the FLSA Status of all Bargaining Unit employees at Grades 10 and below in HIHRTS and the NFC records, and the FLSA status of vacancies posted on USAJobs which include positions at grades GS-10 and below.
8. When NFC records for pay periods 11 ('06) through the execution of this agreement are made available, Grievants who are found to have been paid Capped Overtime instead of Uncapped Overtime, or who were denied Comp Time Election during that period shall be entitled to the remedies set forth in paragraphs 1 and 2 of this agreement. The Union shall have 30 days to review the NFC records and to identify Grievants it believes may be entitled to the remedies set forth in Paragraph 2, and will have 30 days to provide affidavits in support thereof. The Agency will have 30 days to respond and identify affidavits in dispute and the Union-Management working group will resolve any disputes, as set forth above. *This process will be repeated quarterly*
9. All Grievants currently coded FLSA Exempt in HIHRTS and the NFC records shall be recoded FLSA Non-Exempt within sixty (60) days of this agreement. The parties agree that any miscodings in HIHRTS and/or NFC shall not provide a separate basis for damages different from or in excess of what would be due individual miscoded employees under the law and the collective bargaining agreement. *B/E*
10. This agreement shall not establish any precedents for resolution of further portions of the Grievance.

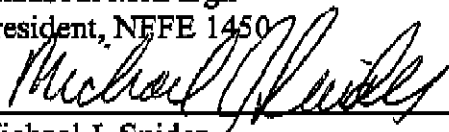
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- 11. Time limits set forth herein may be extended by mutual agreement of the parties.
- 12. This Agreement shall be signed by representatives of the Agency, the Unions, and Arbitrator Sean Rogers. Enforcement of this Agreement shall remain within the jurisdiction of Arbitrator Rogers.
- 13. The Conditions of this Agreement shall also apply to Grievants represented by the National Federation of Federal Employees, local 1450 affected by the GS-10 and Below Settlement Agreement signed on January 17, 2006.


 Carolyn Federoff
 President, AFGE Council 222

 12/12/2006
 Barbara J. Edwards
 Deputy Assistant Secretary for
 Human Resource Management

Elizabeth McDargh
 President, NEFE 1450


 Michael J. Snider
 Counsel for the Unions

 12/12/06
 Shlomo D. Katz
 Counsel for the Agency


 Sean Rogers, Esquire Arbitrator