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**Glenside Nursing Home and District 1199J, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO. Case 22-CA-23154**

April 29, 1999

DECISION AND ORDER

BY MEMBERS FOX, LIEBMAN, AND HURTGEN

Pursuant to a charge and an amended charge filed on February 9 and March 3, 1999, respectively, the General Counsel of the National Labor Relations Board issued a complaint on March 5, 1999, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain and to furnish information following the Union's certification in Case 22-RC-11537. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint and asserting defenses.

On March 26, 1999, the General Counsel filed a Motion for Summary Judgment. On March 30, 1999, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response and the Charging Party has joined in the General Counsel's motion.<sup>1</sup>

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

In its answer and response, the Respondent admits its refusal to bargain and to furnish requested information, but attacks the validity of the certification on the basis of its objections to the election in the representation proceeding.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any

<sup>1</sup> To the extent that the Respondent seeks a hearing on allegations contained in the charge and amended charge but not in the instant complaint, its contention is without merit. The unfair labor practice complaint, not the charge or amended charge, determines the issues to be resolved in this proceeding, and the complaint here is limited to allegations that the Respondent refused to bargain and to supply requested information.

representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.

We also find that there are no issues warranting a hearing with respect to the Union's request for information. The Respondent admits that by letter dated January 14, 1999, the Union requested that the Respondent furnish it with the following information:

1. The complete name, address, social security number and date of hire for all bargaining unit members.
2. Weekly wage rates, including shift differentials, and salary levels for all bargaining unit members by department and by job classification (please provide this information broken down by day, evening and night shifts, omitting all codes).
3. Up-to-date seniority list for all bargaining unit members.
4. Current job descriptions for all classifications represented by the Union.
5. Descriptions of all job evaluation procedures presently in use.
6. Listing and comprehensive description of all health care coverage, life or disability insurance, pension or any other benefit provided to employees. Please include a copy of all plans, (where appropriate) and the cost to the employer as well as the employee for each benefit.

The Respondent's answer admits that it refused to furnish this information and, by reason of its denial that the Union is the valid exclusive collective-bargaining representative, denies that the information requested is relevant and necessary for the Union's role as the exclusive bargaining representative of the unit employees. However, it is well established, that with the exception of the employees' social security numbers requested above,<sup>2</sup> the requested information is presumptively relevant and must be furnished on request. See *Trustees of Masonic Hall*, 261 NLRB 436 (1982), and *Mobay Chemical Corp.*, 233 NLRB 109 (1977). The Respondent has not attempted to rebut the relevance of the information requested by the Union.

Accordingly, we grant the Motion for Summary Judgment and will order the Respondent to bargain and to furnish the requested information with the exception of employee social security numbers.

On the entire record, the Board makes the following

<sup>2</sup> See *Sea-Jet Trucking Corp.*, 304 NLRB 67 (1991). Accordingly, the employee social security numbers allegation is remanded to the Regional Director for further appropriate action.

## FINDINGS OF FACT

## I. JURISDICTION

At all material times the Respondent, an Ohio corporation with an office and place of business in New Providence, New Jersey, has been engaged in the provision of nursing home services. During the 12-month period preceding the issuance of the complaint, the Respondent, in conducting its business operations described above, derived gross revenue in excess of \$250,000 and purchased and received goods and materials in excess of \$50,000 directly from suppliers located outside the State of New Jersey.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. ALLEGED UNFAIR LABOR PRACTICES

A. *The Certification*

Following the election held April 30, 1998, the Union was certified on December 28, 1998, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time CNA's, activity aides, central supply clerks, cooks, dietary aides, housekeeping employees, laundry aides, maintenance assistants and receptionists employed by the Employer at its New Providence, New Jersey facility, but excluding all office clerical employees, professional employees, confidential employees, RNs, LPNs, managers, guards and supervisors as defined in the Act.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

B. *Refusal to Bargain*

Since January 14, 1999, the Union has requested the Respondent, in writing, to bargain and to furnish information and, since January 28, 1999, the Respondent has refused. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

## CONCLUSION OF LAW

By refusing on and after January 28, 1999, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and to furnish the Union requested information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and, if an

understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union the information requested.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965).

## ORDER

The National Labor Relations Board orders that the Respondent, Glenside Nursing Home, New Providence, New Jersey, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with District 1199J, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO, as the exclusive bargaining representative of the employees in the bargaining unit, and refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time CNA's, activity aides, central supply clerks, cooks, dietary aides, housekeeping employees, laundry aides, maintenance assistants and receptionists employed by the Employer at its New Providence, New Jersey facility, but excluding all office clerical employees, professional employees, confidential employees, RNs, LPNs, managers, guards and supervisors as defined in the Act.

(b) Furnish the Union the information it requested on January 14, 1999.

(c) Within 14 days after service by the Region, post at its facility in New Providence, New Jersey, copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Re-

<sup>3</sup> If this Order is enforced by a judgment of the United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United"

gion 22 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since January 28, 1999.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. April 29, 1999

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Sarah M. Fox,	Member
_____	
Wilma B. Liebman,	Member
_____	
Peter J. Hurtgen,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX  
NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with District 1199J, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO, as the exclusive representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All full-time and regular part-time CNA's, activity aides, central supply clerks, cooks, dietary aides, housekeeping employees, laundry aides, maintenance assistants and receptionists employed by us at our New Providence, New Jersey facility, but excluding all office clerical employees, professional employees, confidential employees, RNs, LPNs, managers, guards and supervisors as defined in the Act.

WE WILL furnish the Union the information it requested on January 14, 1999.

GLENSIDE NURSING HOME