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**Beverly Enterprises—Minnesota, Inc. d/b/a Golden Crest Healthcare Center and United Steelworkers of America, AFL–CIO–CLC.** Case 18–CA–15295

September 17, 1999

DECISION AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS FOX  
AND LIEBMAN

Pursuant to a charge filed on July 19, 1999, the General Counsel of the National Labor Relations Board issued a complaint on July 29, 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 provide information following the Union’s certification in Cases 18–RC–16415 and 18–RC–16416. (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, with affirmative defenses, admitting in part and denying in part the allegations in the complaint.

On August 23, 1999, the General Counsel filed a Motion for Summary Judgment and Brief in Support. On August 24, 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.

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 the Respondent admits its refusal to bargain and to furnish information, but attacks the validity of the certification on the basis of its claim in the representation proceeding that the individuals in the bargaining unit are statutory supervisors.

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 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).

We also find that there are no factual issues warranting a hearing with respect to the Union’s requests to bargain and for information. The Respondent’s answer admits that the Union requested it to bargain and to furnish in-

formation and further admits that it has refused to bargain and to provide the requested information.

In its April 29, 1999 letter, the Union requested the following information from the Respondent:

1. A listing of the names, addresses, Social Security numbers, job title, date of hire, date of birth, present wage rate and the date of their last pay increase, how much the pay increase was and the number of hours per pay period each works.
2. Names of those in the above-referenced unit who have health insurance coverage and whether it’s single coverage or family, the amount the employee has to pay for this coverage and the total cost of the single premium and the family premium.
3. The same information in item number two for dental coverage.
4. Any present policy manual that the unit is under.
5. Job descriptions for each job in the unit.
6. Information as to holiday benefits, vacation benefits, sick leave benefits, life insurance, pension benefits, etc.

The Respondent’s answer admits that the Respondent refused to provide this information to the Union. Further, although the Respondent’s answer denies that the information requested is necessary and relevant to the Union’s duties as the exclusive bargaining representative of the unit employees, it appears to do so based on its assertion that it is not obliged to recognize and bargain with the Union because the unit is composed of statutory supervisors as defined by Section 2(11) of the Act. In any event, it is well established that, with the exception of the employees’ social security numbers,<sup>1</sup> all of the foregoing types of information are presumptively relevant for purposes of collective bargaining and must be furnished on request. See *Maple View Manor, Inc.*, 320 NLRB 1149 (1996); *Masonic Hall*, 261 NLRB 436 (1982); and *Mobay Chemical Corp.*, 233 NLRB 109 (1977).

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 employees’ social security numbers.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a Minnesota corporation with an office and place of business in Hibbing, Minnesota, has been engaged in the operation

<sup>1</sup> *Parkview Manor*, 321 NLRB 477, 479 fn. 12 (1996).

of nursing home facilities, including a skilled nursing facility at its Hibbing, Minnesota location.

During the 12-month period preceding issuance of the complaint, a representative period, the Respondent, in conducting its business operations, derived gross revenues in excess of \$1 million and purchased and received at its Hibbing, Minnesota facility goods valued in excess of \$50,000 directly from points outside the State of Minnesota.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(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 elections held April 8, 1999, the Union was certified on April 15, 1999, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:<sup>2</sup>

All full-time and regular part-time registered nurses and licensed practical nurses employed by the Employer at its Hibbing, Minnesota facility; excluding guards and supervisors as defined in the Act, and all other employees.

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

### B. *Refusal to Bargain*

At all times since April 15 and 29, 1999, respectively, the Union has requested the Respondent to bargain and to furnish information and, since April 29, 1999, the Respondent has failed and refused. We find that this failure and refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

## CONCLUSION OF LAW

By failing and refusing on and after April 29, 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 Respon-

dent to furnish the Union the information requested with the exception of employees' social security numbers.

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), enf. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enf. 350 F.2d 57 (10th Cir. 1965).

## ORDER

The National Labor Relations Board orders that the Respondent, Beverly Enterprises—Minnesota, Inc. d/b/a Golden Crest Healthcare Center, Hibbing, Minnesota, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with United Steelworkers of America, AFL-CIO, CLC, 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 registered nurses and licensed practical nurses employed by the Employer at its Hibbing, Minnesota facility; excluding guards and supervisors as defined in the Act, and all other employees.

(b) Furnish the Union the information that it requested on April 29, 1999, with the exception of employees' social security numbers.

(c) Within 14 days after service by the Region, post at its facility in Hibbing, Minnesota, copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 18 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and main-

<sup>2</sup> Elections were held among both the professional and nonprofessional employees. Both groups voted in favor of the Union and the professional employees also voted for inclusion in the unit with nonprofessional employees.

<sup>3</sup> If this Order is enforced by a judgment of a 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 States Court of Appeals Enforcing an Order of the National Labor Relations Board."

tained 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 April 29, 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. September 17, 1999

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John C. Truesdale,	Chairman
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Sarah M. Fox,	Member
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Wilma B. Liebman,	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 United Steelworkers of America, AFL-CIO, CLC, 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 registered nurses and licensed practical nurses employed by us at our Hibbing, Minnesota facility; excluding guards and supervisors as defined in the Act, and all other employees.

WE WILL furnish the Union the information it requested on April 29, 1999 with the exception of employees' social security numbers.

BEVERLY ENTERPRISES—MINNESOTA, INC.  
D/B/A GOLDEN CREST HEALTHCARE CENTER