



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 1  
10 Causeway St Fl 6  
Boston, MA 02222-1001

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (617) 565-6700  
Fax: (617) 565-6725

November 21, 2018

JONATHAN KESELENKO, ATTORNEY  
FOLEY HOAG LLP  
155 SEAPORT BOULEVARD  
BOSTON, MA 02210

Re: UNITE HERE LOCAL 26 (Boston  
Management LLC d/b/a Battery Wharf  
Hotel  
Case 01-CB-227071

Dear Mr. Keselenko:

We have carefully investigated and considered your charge that UNITE HERE LOCAL 26 has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reason discussed below.

Your charge alleges that since about July 26, 2018, UNITE HERE, Local 26 (Union) violated Section 8(b)(3) of the Act by failing to bargain in good faith with Battery Management LLC d/b/a Battery Wharf Hotel (Employer) as demonstrated by its purported withdrawal of the one and only proposal it made in approximately six (6) months of bargaining; refusing to make any new proposal(s); refusing to meet at reasonable times; repeatedly and deliberately misrepresenting its proposal; refusing to engage in any bargaining other than in person while simultaneously engaging in one-sided bargaining via letter and email; purporting to withdraw its only proposal for the tactical purpose of creating an excuse for not providing relevant and requested information; and refusing to provide such information which remained relevant even after its tactical withdrawal of the proposal. Many of these allegations were raised by you in Cases 01-CB-219943, which has been submitted to the Division for the General Counsel's consideration and 01-CB-223890, which was dismissed. The only allegation not previously raised concerns the Employer's demand that the Union submit its new contract proposal to the Employer by email. Although the Union has refused to submit its contract proposals by email, the obligation to bargain in good faith does not require it to do so. The parties are currently at a stalemate over bargaining ground rules and the fact that the Union withdrew its initial contract proposal by email does not obligate the Union, in these circumstances, to submit future contract proposals by this same method. Since the Employer has not offered any other new evidence, I am dismissing your charge.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

November 21, 2018

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **December 5, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service **no later than December 4, 2018. If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. **by 5:00 p.m. Eastern Time on the appeal due date.** If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before December 5, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an **appeal received after December 5, 2018, even if it is postmarked or given to the delivery service before the due date.** Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

November 21, 2018

Very truly yours,

A handwritten signature in cursive script, appearing to read "Paul J. Murphy".

PAUL J. MURPHY  
Acting Regional Director

PJM/rg

Enclosure

cc: BRIAN LANG, PRESIDENT  
UNITE HERE LOCAL 26  
101 STATION LANDING 4TH FLOOR  
MEDFORD, MA 02155

BOSTON MANAGEMENT LLC  
D/B/A BATTERY WHARF HOTEL  
3 BATTERY WHARF  
BOSTON, MA 02109



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November 29, 2018

(b) (6), (b) (7)(C)

Re: AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES LOCAL  
2610 (Bruce Allen Boyington)  
Case 01-CB-230509

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES LOCAL 2610 has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that American Federation of Government Employees, Local 2610 violated its duty of fair representation under Section 8(b)(1)(A) of the Act by not pursuing grievances regarding alleged multiple violations of the collective bargaining agreement. The investigation revealed you are an employee of the Department of Veterans Affairs. The National Labor Relations Board does not have jurisdiction over federal government employees. Accordingly, further proceedings on your charge are not warranted.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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**Appeal Due Date:** The appeal is due on **December 13, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than December 12, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

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AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES LOCAL  
2610 (Bruce Allen Boyington)  
Case 01-CB-230509

- 3 - November 29, 2018

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul J. Murphy". The signature is fluid and cursive, with the first name "Paul" and last name "Murphy" clearly distinguishable.

PAUL J. MURPHY  
Acting Regional Director

PJM:cds

Enclosure

cc: Christopher Bovie, President AFGE Local 2610  
American Federation of Government Employees Local 2610  
1 VA Center  
Augusta, ME 04330

Rochelle Findlay, Chief of Cboc Service Line  
Department Of Veterans Affairs  
1 VA Ctr  
Augusta, ME 04330-6795



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November 21, 2018

Richard Milman, Esq.  
Milman Labuda Law Group PLLC  
3000 Marcus Avenue  
Suite 3W8  
New Hyde Park, NY 11042

Re: UNITE HERE LOCAL 26  
(Public Information Resources d/b/a  
Learning and the Brain)  
Cases: 01-CB-230725 & 01-CC-230732

Dear Mr. Milman:

We have carefully investigated and considered your charges that UNITE HERE, LOCAL 26 have violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charges for the reasons discussed below.

The investigation revealed insufficient evidence to establish that the Union has engaged in unlawful secondary boycott activity by urging the Employer's speakers to drop out of its conference and by urging the Employer to cancel its conference in support of the Union's strike against Marriott hotels, one of which is hosting the conference. Rather, investigation revealed that the Union's actions did not rise to the level of threats or coercion. In addition, the Employer's speakers are independent contractors and, therefore, not covered by Section 8(b)(4)(i)(B).

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UNITE HERE LOCAL 26 (Public  
Information Resources d/b/a Learning and  
the Brain)  
Case 01-CB-230725

- 3 - November 21, 2018

Very truly yours,

A handwritten signature in dark ink, appearing to read "Paul J. Murphy". The signature is fluid and cursive, with the first name "Paul" and last name "Murphy" clearly distinguishable.

Paul J. Murphy  
Acting Regional Director

pjm:cds

Enclosure

cc: Brian Lang, President  
Unite Here, Local 26  
101 Station Landing  
4th Floor  
Medford, MA 02155

Richard G. McCracken, Attorney  
McCracken Stemerman and  
Holsberry, LLP  
595 Market Street  
Suite 800  
San Francisco, CA 94105-2813

Daniel Lagattuta, President  
Public Information Resources d/b/a  
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35 Highland Circle  
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Needham, MA 02494