



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 02
26 Federal Plaza, Suite 3614
New York, NY 10278-3699

Agency Website: www.nlrb.gov
Telephone: (212) 264-0300
Fax: (212) 264-2450

October 31, 2018

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

Re: Salisbury Hotel & New York Hotel
and Motel Trades Council
Case Nos. 02-CA-226312
02-CB-226313

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

We have carefully investigated and considered your charges that Salisbury Hotel (Employer) and New York Hotel Motel Trades Council, AFL-CIO (Union) have violated the National Labor Relations Act.

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

In the charge filed against the Employer, Case No. 02-CA-226312, you alleged that you were discharged because of your activities on behalf of the Union. My decision to dismiss the charge is based on my deferral to the arbitration award issued on (b) (6), (b) (7)(C) 2018. The evidence disclosed that you served as a union (b) (6), (b) (7)(C) from 2007 until your discharge. On (b) (6), (b) (7)(C) 2018, while acting in your capacity as a (b) (6), (b) (7)(C) you had an altercation with your supervisor which resulted in your termination. A timely grievance was filed over the termination of your employment, which covered the issues underlying the allegations raised in your NLRB charge. The grievance was heard by an Arbitrator, on (b) (6), (b) (7)(C) 2018, who denied the grievance.

The Board's deferral policy provides that the Board will postpone making a final determination on a charge when a grievance involving the same issue can be processed under the grievance/arbitration provision of the applicable collective-bargaining agreement (CBA). This policy is partially based on the preference that the parties use their contractual grievance procedure to achieve a prompt, fair, and effective resolution of their disputes.

Once a grievance has been arbitrated, the Board reviews the arbitration award and may defer to an arbitration award as dispositive of the unfair labor practice if it meets the criteria set forth in *Babcock & Wilcox Construction Co.*, 361 NLRB No. 132 (2014). These standards include whether (1) the arbitration proceeding was fair and regular; (2) the parties explicitly authorized the arbitrator to decide the statutory issue; (3) the arbitrator was presented with and

considered the statutory issue, or was prevented from doing so by the party opposing deferral; and (4) whether Board law reasonably permits the award.

I have concluded that the Arbitrator's decision in this case meets the *Babcock & Wilcox* standards. In this regard, I note that the proceedings appear to have been fair and regular and the parties explicitly authorized the Arbitrator to decide the statutory issue, as set forth in the parties' CBA. Moreover, the underlying statutory issue was considered by the Arbitrator, who rendered a decision which, in my view, is reasonably permitted under Board law. The Arbitrator concluded that the Employer had legitimate basis for terminating your employment. In reaching his decision, the Arbitrator acknowledged that a (b) (6), (b) (7)(C) addressing issues with the Employer that are covered under the CBA enjoys protected status. However, the Arbitrator reasonably found that your conduct on (b) (6), (b) (7)(C) 2018, which was captured on video, caused you to lose protection under the Act.

In the charge filed against the Union, in Case No. 02-CB-226313, you alleged that the Union failed to lawfully represent you regarding your termination, including its failure to properly represent you during an arbitration hearing on (b) (6), (b) (7)(C) 2018, for reasons that are arbitrary and invidious. The evidence shows that the Union filed a timely grievance on your behalf, represented you throughout the grievance process and took your grievance to arbitration. Accordingly, the investigation did not establish that the Union violated its duty to fully represent you.

Inasmuch as I am deferring to the Arbitrator's award with respect to your termination and the evidence does not establish that the Employer violated the Act in any other manner encompassed by your charge 02-CA-226312, I am dismissing the charge in its entirety. Further, inasmuch as the evidence does not establish the Union violated the Act as alleged or in any other manner encompassed by your charge 02-CB-226313, I am dismissing the 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.

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.nlrb.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.nlrb.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**

Salisbury Hotel & New York Hotel
and Motel Trades Council
Case Nos. 02-CA-226312
02-CB-226313

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.

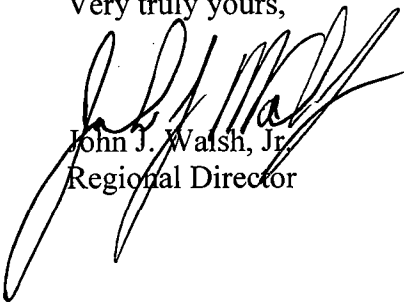
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Appeal Due Date: The appeal is due on **November 14, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If 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 November 13, 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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Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

Salisbury Hotel & New York Hotel
and Motel Trades Council
Case Nos. 02-CA-226312
02-CB-226313

cc: Salisbury Hotel
Attn: Christopher Calo, GM
123 West 57th Street
New York, NY 10019

Lois M. Traub, Esq.
Kane Kessler, P.C.
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New York, NY 10017-4041

New York Hotel and Motel Trades Council
Attn: Peter Ward, President
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New York, NY 10036-7193

Michael A. Palladino, Esq.
Pitta LLP
120 Broadway, 28th Floor
New York, NY 10271



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October 31, 2018

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

Re: Montgomery Nursing and Rehab Center
Case No. 02-CA-227077

1199SEIU United Healthcare Workers East
(Montgomery Nursing and Rehab Center)
Case No. 02-CB-227078

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

We have carefully investigated and considered your charge that Montgomery Nursing and Rehab Center ("Employer") and 1199SEIU United Healthcare Workers East ("Union") have violated the National Labor Relations Act ("Act").

Decision to Dismiss: Based on that investigation, I have decided that there is insufficient evidence to establish that the Employer or the Union violated the Act as alleged in your charges. Therefore, no further proceedings are warranted, and I am dismissing the charges for the following reasons:

In Case No. 02-CA-227077, you have alleged that in (b) (6), (b) (7)(C) 2018, the Employer unlawfully suspended and subsequently discharged you in retaliation for your protected concerted and/or Union activities, including bringing employee complaints to management and cooperating in a State Attorney General investigation. However, the investigation did not reveal any Employer animus towards Union or protected concerted activity, or that your Union activity was linked to the Employer's decision to terminate you. Accordingly, the evidence fails to establish that the Employer violated the Act as alleged or in any other manner.

In Case No. 02-CA-227078, you have alleged that the Union failed to process your grievances regarding your above-referenced suspension and discharge. However, the investigation showed that the Union timely processed your grievances, including submitting your grievances to arbitration. In these circumstances, I do not find that the Union breached its duty of fair representation owed to you, as alleged or in any other manner.

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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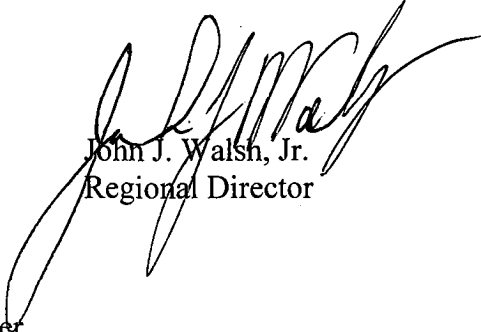
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keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: Montgomery Nursing and Rehab Center
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Montgomery, NY 12549-2132

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White Plains, NY 10601

1199 SEIU United Healthcare Workers East
Attn: Joseph Chinae, Vice President
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White Plains, NY 10601-1532

1199 SEIU United Healthcare Workers East
Attn: George Gresham, President
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Nicole G. Berner, General Counsel
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October 3, 2018

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

Re: Quality Building Services
Case 02-CA-227108

SEIU Local 32BJ
(Quality Building Services)
Case 02-CB-227110

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

We have carefully investigated and considered your charges that Quality Building Services and SEIU Local 32BJ have violated the National Labor Relations Act.

Decision to Dismiss: In view of your lack of cooperation in investigating these cases, I have determined that further proceedings are not warranted at this time and I am dismissing your charges. The investigating Board Agent called the telephone number you provided and left messages for you on September 19, 20, and 25, 2018. You have not returned those telephone calls. Additionally, you failed to appear for a previously scheduled affidavit on September 18. Moreover, on September 20, the Board Agent sent you a letter stating that, as the Charging Party, it is your responsibility to fully cooperate with the investigation and provide evidence in support of the charge. The letter requested you contact the Board Agent no later than September 26, or else your charge could be dismissed for lack of full cooperation. To date, you have yet to do so. Accordingly, I am dismissing your charges due to your lack of cooperation.

If you wish to refile these charges later when you can cooperate in the investigation, you may do so. However, your attention is directed to Section 10(b) of the Act which provides that a charge must be filed with the NLRB and served on the charged party within six months of the conduct alleged to be unlawful.

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

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 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. 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.

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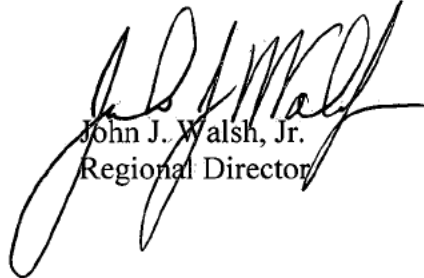
Appeal Due Date: The appeal is due on **October 17, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than **October 16, 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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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.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: Quality Building Services
Attn: (b) (6), (b) (7)(C)
801 Second Avenue
New York, NY 10017

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Nicole G. Berner, General Counsel
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Washington, DC 20036-1806



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October 29, 2018

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

Re: New York Hotel and Motel Trades Council
(Millenium Broadway)
Case 02-CB-221438

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

We have carefully investigated and considered your charge that New York Hotel and Motel Trades Council AFL-CIO has violated the National Labor Relations Act.

Approval of Request to Withdraw Portion of the Charge: This is to advise you that I have approved withdrawal of the portion of the charge pertaining to the allegation that the above Union violated Section 8(b)(2) of the Act inasmuch as the conduct alleged does not implicate that section of the Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss the remainder of your charge because there is insufficient evidence that the Union's actions violate the Act, and because formal proceedings will not effectuate the purposes of the Act.

You allege that the Union violated the Act by (1) negotiating a side agreement which conflicts with the extant collective bargaining agreement; (2) executing the agreement notwithstanding the fact that union members rejected the agreement in a ratification vote; (3) failing to inform affected employees of the agreement which was executed; and (4) failing to provide you a copy of the final agreement.

The investigation revealed that the Union negotiated a side agreement in 2017 setting terms affecting employees of the Charlotte's restaurant at the Millenium Broadway Hotel. While some of those terms provided, among other things, for lower wage rates for newly hired employees of the restaurant, the Union, as part of its duty of fair representation, is accorded a wide range of discretion in negotiating agreements, including discretion to negotiate new terms which may affect different groups of employees differently. There was no evidence adduced that the Union acted in bad faith in negotiating this agreement. Accordingly the Union did not violate its duty of fair representation by negotiating such an agreement.

With respect to the claim that the Union executed an agreement which had been rejected in a ratification vote, the investigation revealed that the Union modified the tentative agreement after the ratification vote, by which certain union members rejected it. Moreover, under the circumstances in the instant case, the Union was under no duty to conduct a ratification vote for this agreement, since there is insufficient evidence that the parties intended this agreement to be subject to ratification. Any such ratification vote, therefore, was advisory in nature.

With respect to the allegation that the Union did not inform members of the agreement, the investigation revealed that the Union held a meeting for just that purpose in January of 2018.

Finally, with respect to your claim that the Union failed to provide you with a copy of the agreement, I note that you are employed in the hotel but not in the restaurant, and therefore not directly affected by the terms of the agreement. Nonetheless, the investigation revealed that the Union intended to provide you a copy but apparently did not get you that copy until several months after it promised to provide it, and after the instant charge was filed. However, based on the totality of these facts, and in light of the fact that the Union acted at all material times in good faith and with honesty of purpose, I am refusing to issue a complaint as to this allegation because it would not effectuate the purposes and policies of the Act to do so.

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

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 and:

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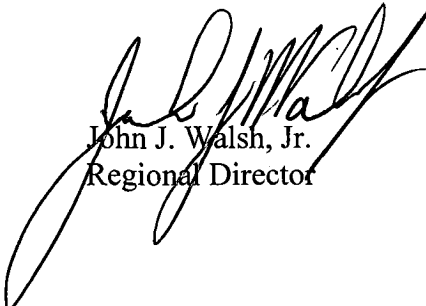
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Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: New York Hotel And Motel Trades
Council, AFL-CIO
Attn: Peter Ward, President
707 8th Ave
New York, NY 10036-7111

Joseph Farelli, Esq.
Pitta LLP
120 Broadway, 28th Floor
New York, New York 10271

Millenium Broadway Hotel
Attn: Casey Rabines, Director HR
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New York, NY 10036-4051



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October 29, 2018

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

Re: SEIU Local 32BJ
(Temco Service Industries, Inc.)
Case 02-CB-222731

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

We have carefully investigated and considered your charge that SEIU Local 32BJ (the Union) 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.

The investigation disclosed that on or about (b) (6), (b) (7)(C) 2018, you filed a grievance with the Union regarding your indefinite suspension from Temco Service Industries, Inc. (the Employer). The evidence shows that the Union investigated your grievance and met with the Employer in an attempt to resolve the grievance. The investigation revealed that the Union attempted to negotiate a resolution of your grievance in good faith, but you declined to enter into a proposed settlement of the grievance. Thereafter, based on its consideration of the circumstances leading to your indefinite suspension, the Union made the determination not to proceed to arbitration, a decision that is subject to an internal appeals procedure. The investigation failed to establish that the Union's decision not to proceed to arbitration regarding your indefinite suspension was arbitrary, discriminatory or perfunctory. Based on the investigation, there is insufficient evidence to conclude that the Union violated the Act, as alleged or in any other manner encompassed by the charge.

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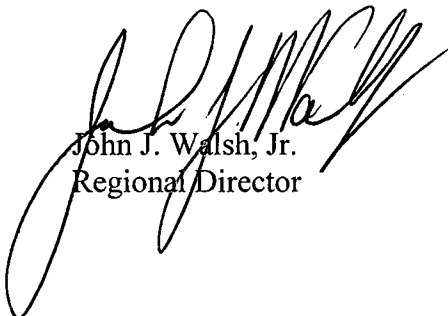
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Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, 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.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

SEIU Local 32BJ (Temco Service
Industries, Inc.)
Case 02-CB-222731

- 3 -

cc: Lyle D. Rowen, General Counsel
SEIU Local 32BJ
25 West 18th Street, 5th Floor
Legal Department
New York, NY 10011-1991

Temco Service Industries Inc.
Attn: Charles McGinley
Director of Employee and Labor Relations
417 Fifth Ave., 9th Floor
New York, NY 10016-5802

Nicole G. Berner, General Counsel
Service Employees International Union
1800 Massachusetts Avenue, N.W.
Washington, DC 20036-1806



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New York, NY 10278-3699

Agency Website: www.nlr.gov
Telephone: (212)264-0300
Fax: (212)264-2450

October 16, 2018

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

Re: Local 32BJ, SEIU
(ABM Maintenance)
Case No. 02-CB-222747

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

We have carefully investigated and considered your charge that Local 32BJ, SEIU (the Union) has violated the National Labor Relations Act (the Act).

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

You allege that the Union has refused to process your vacation grievance since about (b) (6), (b) (7)(C) 2018, and your work load and square footage grievance since about (b) (6), (b) (7)(C) 2018, for arbitrary or discriminatory reasons or in bad faith, in violation of Section 8(b)(1)(A) of the Act. The investigation shows that you have worked for the Employer as a (b) (6), (b) (7)(C) at a commercial building located at 1177 Avenue of the Americas, New York, New York, since about (b) (6), (b) (7)(C). The investigation revealed that you filed a grievance with the Union in (b) (6), (b) (7)(C) 2018 regarding the Employer's failure to adhere to seniority when assigning vacation and filling open positions. While you contend that the Union refused to arbitrate this grievance, the investigation shows that the Union continues to process the grievance. There is no indication that the Union's processing of the grievance has been arbitrary or perfunctory or motivated by unlawful reasons, as alleged.

The investigation further revealed that you filed a work load and square footage grievance in (b) (6), (b) (7)(C) 2017. You contend that the Union informed you it would not process this grievance in (b) (6), (b) (7)(C) 2017. Section 10(b) of the Act prohibits the issuance of complaint on any alleged unfair labor practice occurring more than six months prior to the filing and service of the unfair labor practice charge. The six month limitations period begins to run on a duty of fair representation charge when the party filing the charge knew or should have known that an unfair labor practice has occurred. Accordingly, I have determined that the allegations in your charge as they related to the (b) (6), (b) (7)(C) 2017 grievance are time-barred by Section 10(b) of the Act.

The evidence shows that you filed a second square footage/work distribution grievance approximately six months later. While you contend that the Union again told you it would not proceed, the investigation shows that the Union made an information request to the Employer in connection with this grievance on (b) (6), (b) (7)(C) 2017 and continues to process the grievance.

There is no indication that the Union has processed the grievance in an arbitrary or perfunctory manner or is motivated by other unlawful reasons, as alleged.

Accordingly, inasmuch as the evidence failed to establish that the Union violated the Act as alleged or in any other manner encompassed by your charge, I am dismissing this 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.

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 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. 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.

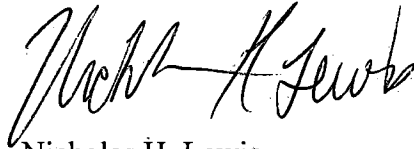
The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **October 30, 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 **October 29, 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 October 30, 2018**. The request may be filed electronically through the **E-File Documents** link on our website 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 **October 30, 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.

Very truly yours,



Nicholas H. Lewis
Acting Regional Director

Enclosure

cc: ABM Maintenance
Attn: Hal Berger, HR Director
1 Liberty Plaza
165 Broadway, 7th Floor
New York, NY 10006

Lyle Rowen, Associate General Counsel
Local 32BJ, SEIU
25 W 18th St
New York, NY 10011-4677

Nicole G. Berner, General Counsel
Service Employees International Union
1800 Massachusetts Avenue, N.W.
Washington, DC 20036-1806



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Agency Website: www.nlr.gov
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Fax: (212)264-2450

October 25, 2018

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

Re: Communication Workers of America,
Local 1103, AFL-CIO
(Nyack Hospital)
Case 02-CB-223098

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

We have carefully investigated and considered your charge that Communication Workers of America, Local 1103, AFL-CIO 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.

You have alleged that the Union violated Section 8(b)(1)(A) of the Act by negotiating certain provisions in its most recent collective bargaining agreement with Nyack Hospital. In this regard, you allege that the provisions which provide for wage increases only every other year for per diem employees such as (b) (6), (b) (7)(C) as compared with yearly raises for full and part-time employees, should be considered unlawful. However, I note that unions are permitted a wide range of discretion in negotiating collective bargaining agreements, including agreeing to terms that may benefit one group of employees over another, so long as they act in good faith and with honesty of purpose. There was no evidence adduced in the investigation that the Union acted in bad faith in negotiating the aforementioned terms of the agreement. Nor was there evidence that the union harbored any animus (b) (6), (b) (7)(C) in negotiating these terms.

Accordingly, I cannot conclude that the Union breached its duty of fair representation. Inasmuch as the investigation fails to establish that the Union violated the Act as alleged, or in any other manner encompassed by your charge, I am refusing to issue a complaint in this matter.

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

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 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.nlrb.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 **November 8, 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 **November 7, 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.

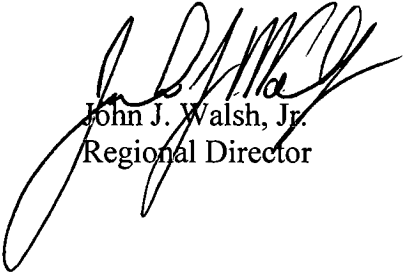
Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 8, 2018**. The request may be filed electronically through the **E-File Documents** link on our website www.nlrb.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 **November 8, 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

Communication Workers of America, Local - 3 -
1103, AFL-CIO (Nyack Hospital)
Case 02-CB-223098

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.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: Communication Workers of America,
Local 1103, AFL-CIO
Attn: Kevin Sheil
345 Westchester Avenue
Port Chester, NY 10573-3809

Guerino J. Calemene III, General Counsel
Communications Workers of
America, AFL-CIO
501 Third Street NW, Suite 800
Washington, DC 20001-2797

Amy S. Young, Esq.
CWA Legal Department
80 Pine Street, 37th Floor
New York, NY 10005

Mary K. O'Melveny, General Counsel
Communication Workers of America
501 Third Street NW, Suite 800
Washington, DC 20001-2760

James S. Frank, Esq.
Epstein, Becker & Green, P.C.
250 Park Avenue
New York, NY 10177

Nyack Hospital
160 North Midland Avenue
Nyack, NY 10960



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26 Federal Plz Ste 3614
New York, NY 10278-3699

Agency Website: www.nlr.gov
Telephone: (212)264-0300
Fax: (212)264-2450

October 31, 2018

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

Re: 32BJ SEIU
(Harvard Maintenance)
Case 02-CB-223499

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

We have carefully investigated and considered your charge that 32BJ SEIU has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

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

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 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. 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.

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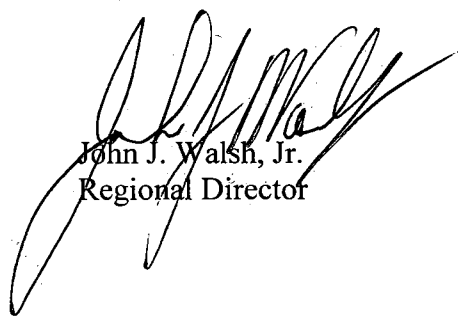
Appeal Due Date: The appeal is due on **November 14, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 13, 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 November 14, 2018.** The request may be filed electronically through the ***E-File Documents*** link on our website 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 November 14, 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.

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Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: Lyle Rowen, Esq.
Local 32BJ, SEIU
25 West 18th Street
New York, NY 10011

Marie B. Hahn, Law Fellow
25 W 18th St
New York, NY 10011-4677

Harvard Maintenance
Attn: Mela Murat, VP of Operations
59 Maiden Lane
New York, NY 10038

Lakisha M. Spence, Associate General Counsel
Harvard Maintenance
59 Maiden Lane, 17th Floor
New York, NY 10038

Nicole G. Berner, General Counsel
Service Employees International Union
1800 Massachusetts Avenue, N.W.
Washington, DC 20036-1806



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October 24, 2018

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

Re: International Brotherhood of Teamsters,
Local 812
(Liberty Coca-Cola Beverage)
Case 02-CB-223510

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

We have carefully investigated and considered your charge that International Brotherhood of Teamsters, Local 812 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

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

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 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. 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.

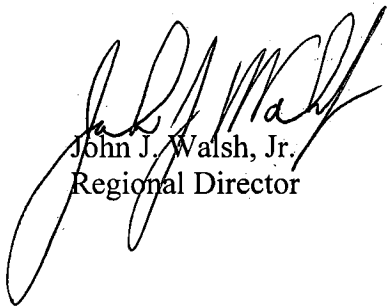
Appeal Due Date: The appeal is due on **November 7, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 6, 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 November 7, 2018.** The request may be filed electronically through the *E-File Documents* link on our website www.nlrb.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 November 7, 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.

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Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: International Brotherhood of Teamsters,
Local 812
Attn: Edward Weber, President
445 Northern Blvd Ste 30
Great Neck, NY 11021-4804

Barry I. Levy, Esq.
Rivkin Radler LLP Attorneys At Law
926 RXR Plaza
Uniondale, NY 11556-3823

International Brotherhood of Teamsters,
Local 812 (Liberty Coca-Cola Beverage)
Case 02-CB-223510

- 3 -

Liberty Coca-Cola Beverage
Attn: Diane Holloran, Human Resources
111 Fairview Park Drive
Elmsford, NY 10523-1525

Lawrence Dietrich
240 West 37th Street, Suite 6E
New York, NY 10018



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Fax: (212)264-2450

October 31, 2018

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

Re: Local 32BJ SEIU
(Principal Building Services, Inc.)
Case 02-CB-223637

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

We have carefully investigated and considered your charge that Local 32BJ SEIU ("Union") 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.

You have alleged that the Union failed to process your grievances regarding an incorrect wage rate and your having been improperly bumped from your position, for arbitrary and capricious reasons. The evidence showed that you started working for Principal Building Services ("Employer") in (b) (6), (b) (7)(C). You were let go six months later, in (b) (6), (b) (7)(C) 2017. Around two weeks after your last day of employment, you filed the above-described grievances. By letter dated (b) (6), (b) (7)(C) 2017, the Union wrote to the Employer requesting a Step 2 meeting, but the Employer did not respond to this request. Since that time, the Union was in contact with the Employer regarding the settlement of the grievances. On those occasions when you contacted the Union representatives handling your grievances, you were informed that the Union was processing your grievances and that they would take your discharge grievance to arbitration if the Employer was unable to justify having bumped you. Recently, the investigation revealed that the Union resolved your wage claim grievance and the Employer has agreed to pay you for the monies owed as a result of your having received an incorrect wage rate during your employment. Furthermore, the Union has secured an arbitration date of (b) (6), (b) (7)(C) 2018 for your bumping grievance. Thus, there is no evidence that the Union's handling of your grievances was influenced by unlawful considerations or that the Union acted in an arbitrary or perfunctory manner. As the evidence fails to establish that the Union violated the Act as alleged or in any other manner encompassed by your charge, I am dismissing the 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.

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 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. 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.

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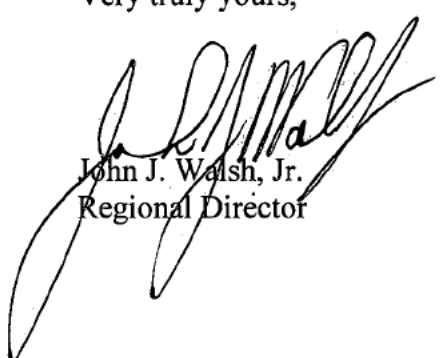
Appeal Due Date: The appeal is due on November 14, 2018. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 13, 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** November 14, 2018. The request may be filed electronically through the **E-File Documents** link on our website 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 November 14, 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.

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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.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: Principal Building Services, Inc.
Attn: (b) (6), (b) (7)(C) Payroll
505 8th Ave
Rm 1000
New York, NY 10018-4543

Local 32BJ SEIU
Attn: Tom Petrowski, Grievance Rep
25 W. 18th Street
New York, NY 10011

Lyle Rowen, Esq.
Local 32BJ, SEIU
25 West 18th Street
New York, NY 10011

Katchen Locke, Associate General Counsel
Service Employees International Union, Local
32BJ
25 West 18th Street, 5th Floor
New York, NY 10011-4676

Nicole G. Berner, General Counsel
Service Employees International Union
1800 Massachusetts Avenue, N.W.
Washington, DC 20036-1806



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Agency Website: www.nlr.gov
Telephone: (212)264-0300
Fax: (212)264-2450

October 22, 2018

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

Re: New York State Nurses Association
(Mount Sinai Hospital)
Case 02-CB-224053

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

We have carefully investigated and considered your charge that New York State Nurses Association has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

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

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 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. 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.

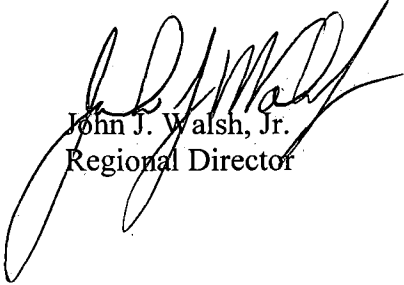
Appeal Due Date: The appeal is due on **November 5, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 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 November 5, 2018.** The request may be filed electronically through the ***E-File Documents*** link on our website 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 November 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.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: New York State Nurses Association
Attn: Terry Alaimo, Area Director
131 West 33rd Street, 4th Floor
New York, NY 10011

Claire K. Tuck, Director,
Legal Department
New York State Nurses Association
131 West 33rd Street, Floor 4
New York, NY 10001-2966

Olivia R. Singer, Esq.
Cohen, Weiss and Simon, LLP
900 Third Avenue, Suite 2100
New York, NY 10022-4869

Mount Sinai Hospital
Attn: Jennifer Siller,
Director of Emergency Services
1468 Madison Avenue
New York, NY 10029-6508

Marina Lowy, Esq.,
Senior Associate General Counsel
Mount Sinai Medical Center
One Gustave Levy Place
Box 1099-Legal Dept.
New York, NY 10029

Rebecca Berkebile, Assistant General Counsel
The Mount Sinai Hospital
150 East 42nd Street, Suite 2-B, 17
New York, NY 10017-5643



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 02
26 Federal Plz Ste 3614
New York, NY 10278-3699

Agency Website: www.nlr.gov
Telephone: (212)264-0300
Fax: (212)264-2450

October 31, 2018

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

Re: National Association of Letter Carriers,
Branch 36
(United States Postal Service)
Case No. 02-CB-224142

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

We have carefully investigated and considered your charge that National Association of Letter Carriers, Branch 36 has violated the National Labor Relations Act and the Postal Reorganization Act.

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

You allege that the Union unlawfully refused to process your grievance concerning pay discrepancies in pay periods 24 and 25 of 2017. The investigation revealed that you are employed by the United States Postal Service and, after you failed to report to work from about (b) (6), (b) (7)(C) 2017 to (b) (6), (b) (7)(C) 2017, were classified as absent without leave for that period. Thereafter, the Union filed a grievance over this action and processed that grievance through the grievance-arbitration procedure. At Step B of the procedure, the parties resolved the grievance finding that the Employer had just cause for its action. Decisions made at the Step B level are final and binding. There is no indication that the Union harbors hostility towards you or that it processed your grievance in an arbitrary or discriminatory manner. While you allege that the Union failed to present relevant evidence at Step B showing you were entitled to (b) (6), (b) (7)(C) leave for the period of your absence, the investigation does not show that the Union failed to present any such relevant information. While you also allege that the Union failed to inform you of the adverse final decision, the investigation shows that the Union offered to provide you with a copy and explanation of the Step B decision, which you refused. For these reasons, there is insufficient evidence to establish that the Union breached its duty of fair representation. Accordingly, inasmuch as the evidence failed to establish that the Union violated the Act as alleged or in any other manner encompassed by your charge, I am dismissing this 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.

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 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. 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 November 14, 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 November 13, 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** November 14, 2018. The request may be filed electronically through the *E-File Documents* link on our website 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 November 14, 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.

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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.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: United States Postal Service
Attn: Patricia Henry
465 East 188th Street
Bronx, NY 10458

Roderick D. Eves, Deputy Managing Counsel
United States Postal Service
1720 Market Street
Rm 2400
St. Louis, MO 63155-9948

National Association of Letter Carriers, Branch 36
Attn: Charles Heege, President
347 West 41st Street
New York, NY 10036

Peter D. DeChiara, Esq.
Cohen, Weiss and Simon LLP
900 Third Avenue, 21st Floor
New York, NY 10022

Hiram M. Arnaud, Esq.
Cohen, Weiss & Simon LLP
900 Third Avenue
21st Floor
New York, NY 10022



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 02
26 Federal Plz Ste 3614
New York, NY 10278-3699

Agency Website: www.nlr.gov
Telephone: (212)264-0300
Fax: (212)264-2450

October 10, 2018

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

Re: OPEIU Local 153
(Whitney Museum of American Art)
Case 02-CB-225085

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

We have carefully investigated and considered your charge that OPEIU Local 153 has violated the National Labor Relations Act.

Decision to Dismiss: As the Charging Party, you are required to give evidence in support of your charge. On September 11, 2018, the Board agent scheduled an appointment for you for September 18, 2018, at 10:00 a.m. for you to appear in this office to provide evidence. You failed to appear for that appointment and did not contact the Board agent to reschedule. After you failed to appear for your appointment on September 18, the Board agent called and left you a message to attempt to schedule a second appointment with you. On September 20, the Board agent telephoned you again, and left a message for you rescheduling your appointment for September 27, 2018 at 10:00am. The Board agent also emailed you and wrote to you, informing you of the appointment and that a failure to appear could lead to the dismissal of your charge. You failed to appear for your appointment on September 27, and did not call this office either to explain why you did not appear, or to reschedule your appointment. Based on the above, I have concluded that you have failed to cooperate in the investigation of your charge, and, for that reason, 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.

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 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. 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 **October 24, 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 October 23, 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 October 24, 2018**. The request may be filed electronically through the **E-File Documents** link on our website 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 October 24, 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.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

OPEIU Local 153 (Whitney Museum of
American Art)
Case 02-CB-225085

- 3 -

cc: OPEIU Local 153
Attn: Daniel A. Ross,
Business Representative
265 West 14th Street, 6th Floor
New York, NY 10011

Whitney Museum of American Art
Attn: Hillary Blass,
Director of Human Resources
99 Gansevoort St
New York, NY 10014-1404

Ronald Kreismann, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.
1745 Broadway, 22nd Floor
New York, NY 10019



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 02
26 Federal Plz Ste 3614
New York, NY 10278-3699

Agency Website: www.nlrb.gov
Telephone: (212)264-0300
Fax: (212)264-2450

October 29, 2018

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

Re: SEIU Local 32BJ
(Harvard Maintenance, Inc.)
Case 02-CB-226972

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

We have carefully investigated and considered your charge that SEIU Local 32BJ has violated the National Labor Relations Act.

Decision to Dismiss: In view of your lack of cooperation in investigating this case, I have determined that further proceedings are not warranted at this time and I am dismissing your charge.

The Board Agent assigned to investigate this case first scheduled an affidavit with you for October 9, 2018. You failed to appear or contact the office prior to the scheduled appointment to reschedule. The Board Agent called you on October 9 after you had failed to appear and you agreed to an appointment for October 12 for the purpose of taking your affidavit. However, on October 12, you again failed to appear or reschedule. After you failed to appear, the Board Agent sent you a letter on October 12 scheduling a third appointment for October 18 for the purpose of taking your evidence. The letter further notified you that a failure to cooperate might result in the dismissal of your charge for lack of cooperation. On October 18, you contacted the Board Agent and said you were unable to appear as scheduled. On October 19, the Board Agent sent you a third letter, which reiterated that your failure to cooperate may be grounds for dismissing the charge and scheduled a fourth appointment for October 26. The Board Agent also spoke with you that day to confirm the October 26 appointment date. You did not appear for the scheduled appointment on October 26 or contact the office to reschedule. Accordingly, because you failed to appear to provide evidence in support of your charge on October 19, 12, 18, and 26, I have decided to dismiss your charge because of your lack of cooperation with our investigation.

If you wish to re-file this charge later when you can cooperate in the investigation, you may do so. However, your attention is directed to Section 10(b) of the Act which provides that a charge must be filed with the NLRB and served on the charged party within six months of the conduct alleged to be unlawful.

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

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 and:

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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** November 13, 2018. The request may be filed electronically through the **E-File Documents** link on our website 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 November 13, 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.

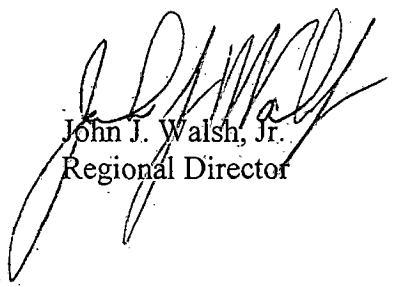
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SEIU Local 32BJ (Harvard Maintenance,
Inc.)
Case 02-CB-226972

- 3 -

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.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: Harvard Maintenance Inc.
Attn: Angie Fernandez,
HR Representative
59 Maiden Lane 17th Floor
New York, NY 10038

Lyle D. Rowen, Associate General Counsel
32BJ, SEIU
25 West 18th Street
New York, NY 10011

Jessica D. Ochs, Associate General Counsel
25 West 18th Street
New York, NY 10011

SEIU Local 32BJ
25 West 18th Street
New York, NY 10011

Nicole G. Berner, General Counsel
Service Employees International Union
1800 Massachusetts Avenue, N.W.
Washington, DC 20036-1806



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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New York, NY 10278-3699

Agency Website:
www.nlr.gov
Telephone: (212) 264-0300
Fax: (212) 264-2450

October 29, 2018

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

Re: SEIU 32BJ
(Tishman Speyer)
Case No. 02-CB-227482

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

We have carefully investigated and considered your charge that SEIU 32BJ ("Union") has violated the National Labor Relations Act ("Act") by refusing to submit your grievance regarding your discharge from employment to arbitration.

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

First, the charge allegation is barred by the six-month statute of limitations applicable to alleged violations of the Act pursuant to Section 10(b) of the Act. The Union wrote to you by letter dated February 13, 2018 advising you that its Grievance Appeal Board had sustained the (b) (6), (b) (7)(C) 2017 decision not to submit your grievance to arbitration. You also spoke to Union (b) (6), (b) (7)(C) on about February 23, 2018, and (b) (6) advised you of the same decision. Consequently, the Section 10(b) period expired, at the latest, by August 23, 2018. The charge in this matter, however, was not filed until September 17, 2018.

Second, the evidence failed to establish that the Union's decision not to submit your grievance to arbitration was arbitrary or discriminatory. Rather, the evidence supports the conclusion that the decision was based upon an evaluation of the merits of your grievance and that the Union rationally concluded it could not prevail in light of your history of warnings and suspensions for attendance-related issues. I am therefore refusing to issue a complaint in this matter.

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

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 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. 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.

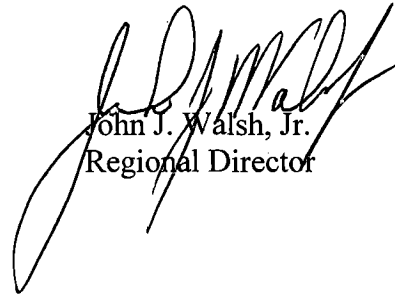
Appeal Due Date: The appeal is due on **November 13, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 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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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.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

cc: Lyle D. Rowen, Assoc. General Counsel
SEIU, Local 32BJ
25 West 18th Street
New York, NY 10011

SEIU, Local 32BJ
Attn: Corrado Meola,
Grievance Representative
25 West 18th Street
New York, NY 10011

Marie Hahn, Esq.
SEIU, Local 32BJ
25 West 18th Street
New York, NY 10011

Tishman Speyer
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New York, NY 10112

Nicole G. Berner, General Counsel
Service Employees International Union
1800 Massachusetts Avenue, NW
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