



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 31
11500 W Olympic Blvd Ste 600
Los Angeles, CA 90064-1753

Agency Website: www.nlr.gov
Telephone: (310)235-7351
Fax: (310)235-7420

September 28, 2018

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

Re: *SEIU United Healthcare Workers West*
(Cedars Sinai Medical Center)
Case 31-CB-221342

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

We have carefully investigated and considered your charge that SEIU United Healthcare Workers - West ("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.

Your charge alleges that the Union "has failed its duty of fair representation by refusing to fully grieve/help the undersigned with management's subcontracting of work/job duties including preferential assignment by management of work duties to other employees." A union breaches its duty of fair representation and violates Section 8(b)(1)(A) of the Act when its conduct toward a member of the unit is "arbitrary, discriminatory, or in bad faith." *Vaca v. Sipes*, 386 U.S. 171, 190 (1967). Here, the investigation revealed that the Union filed a class grievance in October 2017 regarding the Employer's assignment of lift team work to non-bargaining unit employees, met with the Employer regarding the grievance in November 2017, and has recently moved the grievance to arbitration. Thus, the evidence does not support finding that the Union has at any time refused to grieve the issue. Moreover, the evidence does not support finding that the Union's handling of the issue has been discriminatory or in bad faith. Finally, the evidence does not support finding that the Union's conduct has been arbitrary because even assuming there was some delay in the Union's processing of the grievance, the evidence does not support finding that its conduct was "so far outside a 'wide range of reasonableness' as to be irrational." *United Steel Workers (Trimas Corp. d/b/a Cequent Towing Products)*, 357 NLRB 516, 517 (2011). Accordingly, the evidence does not support finding a violation of the Act as alleged.

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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- 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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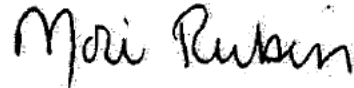
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September 28, 2018

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Very truly yours,



Mori Rubin
Regional Director

Enclosure

cc: Catherine Jeter
Cedars Sinai Medical Center
8700 Beverly Blvd.
Los Angeles, CA 90048-1804

Jeffrey S. Bosley, Esq.
Davis Wright Tremaine LLP
505 Montgomery St, Suite 800
San Francisco, CA 94111-6533

(b) (6), (b) (7)(C)
SEIU United Healthcare Workers-West
5480 Ferguson Drive
Los Angeles, CA 90022

Monica T. Guizar, Attorney at Law
Weinberg, Roger & Rosenfeld
800 Wilshire Blvd., Suite 1320
Los Angeles, CA 90017-2623

Bruce A. Harland, Attorney
Weinberg Roger & Rosenfeld
1001 Marina Village Pkwy, Suite 200
Alameda, CA 94501



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September 28, 2018

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

Re: *SEIU United Healthcare Workers West*
(Cedars Sinai Medical Center)
Case 31-CB-221346

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

We have carefully investigated and considered your charge that SEIU United Healthcare Workers - West ("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.

Your charge alleges that the Union "has failed its duty of fair representation by refusing to fully grieve/help the undersigned with management's subcontracting of work/job duties including preferential assignment by management of work duties to other employees." A union breaches its duty of fair representation and violates Section 8(b)(1)(A) of the Act when its conduct toward a member of the unit is "arbitrary, discriminatory, or in bad faith." *Vaca v. Sipes*, 386 U.S. 171, 190 (1967). Here, the investigation revealed that the Union filed a class grievance in October 2017 regarding the Employer's assignment of lift team work to non-bargaining unit employees, met with the Employer regarding the grievance in November 2017, and has recently moved the grievance to arbitration. Thus, the evidence does not support finding that the Union has at any time refused to grieve the issue. Moreover, the evidence does not support finding that the Union's handling of the issue has been discriminatory or in bad faith. Finally, the evidence does not support finding that the Union's conduct has been arbitrary because even assuming there was some delay in the Union's processing of the grievance, the evidence does not support finding that its conduct was "so far outside a 'wide range of reasonableness' as to be irrational." *United Steel Workers (Trimas Corp. d/b/a Cequent Towing Products)*, 357 NLRB 516, 517 (2011). Accordingly, the evidence does not support finding a violation of the Act as alleged.

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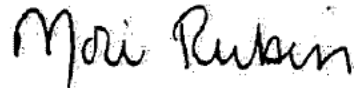
SEIU United Healthcare Workers West
(Cedars Sinai Medical Center)
Case 31-CB-221346

- 3 -

September 28, 2018

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Very truly yours,



Mori Rubin
Regional Director

Enclosure

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8700 Beverly Blvd
Los Angeles, CA 90048-1804

Jeffrey S. Bosley, Esq.
Davis Wright Tremaine LLP
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(b) (6), (b) (7)(C)

SEIU United Healthcare Workers-West
5480 Ferguson Drive
Los Angeles, CA 90022

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September 28, 2018

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

Re: *SEIU United Healthcare Workers West*
(Cedars Sinai Medical Center)
Case 31-CB-221355

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

We have carefully investigated and considered your charge that SEIU United Healthcare Workers - West ("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.

Your charge alleges that the Union "has failed its duty of fair representation by refusing to fully grieve/help the undersigned with management's subcontracting of work/job duties including preferential assignment by management of work duties to other employees." A union breaches its duty of fair representation and violates Section 8(b)(1)(A) of the Act when its conduct toward a member of the unit is "arbitrary, discriminatory, or in bad faith." *Vaca v. Sipes*, 386 U.S. 171, 190 (1967). Here, the investigation revealed that the Union filed a class grievance in October 2017 regarding the Employer's assignment of lift team work to non-bargaining unit employees, met with the Employer regarding the grievance in November 2017, and has recently moved the grievance to arbitration. Thus, the evidence does not support finding that the Union has at any time refused to grieve the issue. Moreover, the evidence does not support finding that the Union's handling of the issue has been discriminatory or in bad faith. Finally, the evidence does not support finding that the Union's conduct has been arbitrary because even assuming there was some delay in the Union's processing of the grievance, the evidence does not support finding that its conduct was "so far outside a 'wide range of reasonableness' as to be irrational." *United Steel Workers (Trimas Corp. d/b/a Cequent Towing Products)*, 357 NLRB 516, 517 (2011). Accordingly, the evidence does not support finding a violation of the Act as alleged.

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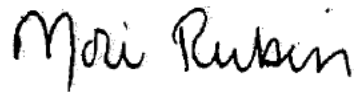
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Very truly yours,



Mori Rubin
Regional Director

Enclosure

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September 26, 2018

Daniel A. Adlong, Attorney at Law
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
695 Town Center Drive, Suite 1500
Costa Mesa, CA 92626-7106

Re: *International Union of Operating Engineers, Local
501, AFL-CIO (Douglas Emmett Management, LLC)*
Case 31-CB-222459

Dear Mr. Adlong:

We have carefully investigated and considered your charge that International Union of Operating Engineers, Local 501, 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.

Your charge alleges that the Union violated Section 8(b)(3) of the Act when it failed and/or refused to bargain in good faith with the Employer regarding discretionary elements of annual wage increases and bonuses. The investigation revealed that the Employer proposed to depart from its past practice on this matter, notified the Union of its proposed change, and offered the Union the opportunity to bargain on several occasions. While the Union failed to request bargaining prior to the Employer's implementation of its proposal and thereby waived its right to bargain, this did not constitute a refusal to bargain on the Union's part. There is no evidence that the Employer demanded to bargain about this subject or that the Union refused to do so. Rather, the Union provided the Employer with a proposal on this matter, albeit after the Employer had implemented its own proposal. Accordingly, I find there is insufficient evidence to establish a violation of the Act as alleged.

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International Union of Operating Engineers, - 2 -
Local 501, AFL-CIO
(Douglas Emmett Management, LLC)
Case 31-CB-222459

September 26, 2018

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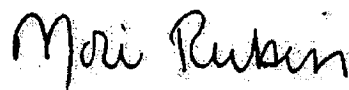
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Very truly yours,



Mori Rubin
Regional Director

Enclosure – cc's continued next page

International Union of Operating Engineers, - 3 -
Local 501, AFL-CIO
(Douglas Emmett Management, LLC)
Case 31-CB-222459

September 26, 2018

cc: Douglas Emmett Management, LLC
21800 Oxnard Avenue
The Warner Center
Los Angeles, CA 91367

Pat Murphy, Business Agent
International Union of Operating
Engineers, Local 501, AFL-CIO
2405 West Third Street
Los Angeles, CA 90057-1907



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September 28, 2018

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

Re: UNITE HERE Local 11
(Universal Studios Hollywood)
Case 31-CB-222835

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

We have carefully investigated and considered your charge that UNITE HERE Local 11 (“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.

Your charge alleges that the Union violated Section 8(b)(1)(A) of the Act by “refusing to file and/or process the grievance of (b) (6), (b) (7)(C) regarding (b) (6), (b) (7)(C) termination on (b) (6), (b) (7)(C) 2017 for arbitrary or discriminatory reasons or in bad faith.” However, the evidence presented during the investigation does not support finding merit to the allegation. First, there is insufficient evidence to establish that the Union’s failure to file a grievance regarding your discharge was discriminatory or in bad faith. Second, the evidence also does not support finding that the Union’s conduct was arbitrary because you admit that you failed to follow the Union’s grievance-handling process by not submitting a written incident report regarding your termination to the Union in order to initiate the grievance process. Furthermore, even assuming that you properly requested that the Union file a grievance regarding your termination, there is insufficient evidence to establish that the Union’s decision not to file a grievance would have been arbitrary. This is so because it was reasonable for the Union to conclude that your grievance would not be successful given that you were on a last-chance agreement at the time of your discharge and that the evidence supports the Employer’s reason for discharging you. Therefore, in light of the facts in this case, the evidence does not support finding that the Union’s conduct was “so far outside a ‘wide range of reasonableness’ as to be irrational.” *United Steel Workers (Trimas Corp. d/b/a Cequent Towing Products)*, 357 NLRB 516, 517 (2011). Accordingly, there is insufficient evidence to establish a violation of the Act as alleged.

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UNITE HERE Local 11
(Universal Studios Hollywood)
Case 31-CB-222835

- 3 -

September 28, 2018

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,



MORI RUBIN
Regional Director

Enclosure

cc: Fred Pascual, Union Representative
UNITE HERE Local 11
464 Lucas Ave, #201
Los Angeles, CA 90017-2074

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

Universal Studios Hollywood
100 Universal City Pl
Universal City, CA 91608



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September 26, 2018

William L. Messenger, Esq.
National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Rd, Suite 600
Springfield, VA 22160

Re: *UNITE HERE Local 11*
(DH Long Point LLC d/b/a Terranea Resort)
Case 31-CP-227697

Dear Mr. Messenger:

We have carefully investigated and considered your charge that UNITE HERE Local 11 (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 revealed that the Charged Party Union engaged in picketing for more than 30 days at Terranea Resorts with a recognitional object and without filing an election petition. However, the investigation further established that the Union's conduct was protected by the publicity proviso of Section 8(b)(7)(C) and therefore was not unlawful. More specifically, the message on the Union's picket sign truthfully informed the public that Terranea Resort does not have a contract with the Union. While the investigation did uncover three instances where the log prepared by members of the Terranea (b) (6), (b) (7)(C) Department reported that certain picket signs stated "UNITE HERE Local 11," in light of other evidence about the wording on the signs, those log entries were insufficient by themselves to establish that these words were the only message or text on the picket signs on those three dates. In fact, witness testimony presented by the Charging Party concerning the picketing on one of those dates - July 27, 2017 - stated that the witness "did not recall" if the picket signs contained any message other than "UNITE HERE Local 11." Furthermore, there was insufficient evidence to establish that the Union's picketing lost the protection of the proviso because it induced any individual not to pick up, deliver, or transport any goods, or not to perform any services at Terranea Resort. In this regard, the investigation also revealed that the picket signs specifically advised that the Union was "not asking the employees of any employer to stop work or to refuse to pick up, deliver or transport any goods to this Hotel."

With regard to any handbilling or verbal appeals by the Union to customers, employees, or other individuals, there was insufficient evidence to show that such conduct constituted "picketing." Accordingly, that conduct did not implicate the prohibitions in Section 8(b)(7)(C).

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 10, 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 9, 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 10, 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 10, 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

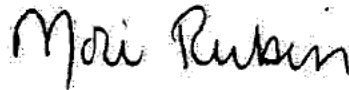
UNITE HERE Local 11
(DH Long Point LLC d/b/a Terranea
Resort)
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by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



Mori Rubin
Regional Director

Enclosure

cc: Susan Minato, President
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(b) (6), (b) (7)(C)

