



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

Region 24

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San Juan, Puerto Rico 00918-1002

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November 17, 2010

Lester A. Heltzer
Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Re: Grape Tree Shores, Inc., d/b/a
Divi Carina Bay Resort
Case No. 24-CA-11101

Dear Mr. Heltzer

Please be advised that pursuant to the Board's Order in the above entitled matter reported at 355 NLRB No. 194, the Acting Regional Director for Region 24 issued an "Amended Complaint and Notice of Hearing" on October 8th, 2010. Pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, the Respondent was advised that it had to file its answer to the Amended Complaint and Notice of Hearing on or before October 22, 2010 or postmarked on or before October 21, 2010. Respondent was further advised that if no answer was filed or if an answer was filed untimely, the Board could find that the allegations in the amended complaint were true. However, Respondent did not file an answer to the amended complaint.

For convenient reference, a copy of the amended complaint, dated October 8, 2010 and an affidavit of service of the same is attached to this letter.

A handwritten signature in black ink, appearing to read "Luis F. Padilla".

Luis F. Padilla
Counsel for Acting General Counsel

cc:

Charles E. Engeman, Esq.
Ogletree, Deakins, Nash, Smoak
Stewart, LLC 25
The Tunick Building, Suite 201 Christiansted
1336 Beltjen Road
St. Thomas, VI 00802

Grapetree Shores, Inc. d/b/a Divi Carina Resort & Casino
25 Turner Hole
Christiansted
St. Croix, VI 00820

Virgin Islands Workers Union
P O Box 3112
Christiansted
St. Croix, VI 00822-3112

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 24**

GRAPETREE SHORES, INC. D/B/A
DIVI CARINA BAY RESORT

and

VIRGIN ISLANDS WORKERS UNION

Case 24-CA-11101

AMENDED COMPLAINT AND NOTICE OF HEARING

Virgin Islands Workers Union, herein called the Union, has charged that Divi Carina Bay Resort, herein correctly designated Grapetree Shores, Inc. d/b/a Divi Carina Bay Resort, herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151 et seq., herein called the Act. Based thereon the Acting General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. The charge was filed by the Union on January 14, 2009, and a copy was served by regular mail on Respondent on January 15, 2009.
2. (a) At all material times Respondent, a U.S. Virgin Islands corporation, with an office and place of business in Christiansted, St. Croix, U.S. Virgin Islands, herein called the hotel, has been engaged in the operation of a hotel and casino.

(b) During the past twelve month period, Respondent, in conducting its business operations described above in paragraph 2(a), derived gross revenues in excess of \$500,000.

(c) During the past twelve month period, Respondent, in conducting its business operations described above in paragraph 2(a), purchased and received at its hotel goods valued in excess of \$50,000 directly from points outside the U.S. Virgin Islands.

3. At all material times Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. At all material times the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5. The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and maintenance employees, including food and beverage, kitchen, housekeeping, maintenance, front desk, communications, bell and guest services, gift shop, activities and grounds; excluding all other employees, office, clerical employees, guards, and supervisors as defined by the Act.

6. (a) On August 18, 2008, in Case 24-RC-8566, the Union was certified as the exclusive collective-bargaining representative of the Unit, which certification was validated by the Board in its Decision and Notice to Show Cause reported at 355 NLRB No. 194 of September 28, 2010.

(b) At all times since August 18, 2008, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

7. (a) About December 17, 2008, and again about September 29, 2010, the Union, by letters, requested Respondent to recognize and bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

(b) Since about December 22, 2008, Respondent has failed and continues to refuse to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

8. By the conduct described above in paragraph 7, Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

9. The unfair labor practices of the Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for Respondent's unfair labor practices alleged above in paragraph 8, the Acting General Counsel seeks an Order requiring Respondent to bargain in good faith with the Union, on request, for the period required by *Mar-Jac Poultry*, as the recognized bargaining representative in the appropriate unit. The Acting General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the amended complaint. The answer must be **received by this office on or before October 22, 2010, or postmarked on or before October 21, 2010.** Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on the **E-Gov tab**, select **E-Filing**, and then follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to an amended complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is

filed or if an answer is filed untimely, the Board may find, pursuant to Motion for Default Judgment, that the allegations in the amended complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on a date to be designated subsequently, in St. Croix, United States Virgin Islands, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this amended complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

All parties are reminded of the National Labor Relations Board's standard procedures in formal unfair labor practice proceedings which provide that all exhibits offered for evidence shall be filed in duplicate. In the event a duplicate copy of the exhibit which has been received in evidence has not been submitted to the Administrative Law Judge prior to the close of hearing, and the filing of said duplicate has not for good reason shown been waived by the Administrative Law Judge, any ruling receiving the exhibits may be rescinded and the exhibits rejected.

Dated at San Juan, Puerto Rico, this 8th day of October, 2010.



Luis F. Padilla
Acting Regional Director

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GRAPETREE SHORES, INC. D/B/A
DIVI CARINA BAY RESORT

and

VIRGIN ISLANDS WORKERS UNION

CASE: 24-CA-11101

DATE OF MAILING October 8, 2010

AFFIDAVIT OF SERVICE OF: AMENDED COMPLAINT AND NOTICE OF HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by postpaid regular mail upon the following persons, addressed to them at the following addresses:

Served by certified mail:

Charles E. Engeman, Esq.
Ogletree, Deakins, Nash, Smoak &
Stewart, LLC
The Tunick Building, Suite 201
1336 Beltjen Road
St. Thomas, VI 00802

Virgin Islands Workers Union
P O Box 3112
Christiansted
St. Croix, VI 00822-3112

Served by regular mail:

Grapetree Shores, Inc., d/b/a Divi Carina
Resort & Casino
25 Turner Hole
Christiansted
St. Croix, VI 00820

e-Filed:
National Labor Relations Board
Attention: Division of Judges
1099 14TH Street, NW
Washington, DC 20570-0001

Subscribed and sworn to before me this 8th day
of October, 2010.

DESIGNATED AGENT - KG

NATIONAL LABOR RELATIONS BOARD