

**UNITED STATES OF AMERICA  
Before The  
NATIONAL LABOR RELATIONS BOARD**

<b>MARS HOME FOR YOUTH,</b>	)	
	)	
<b>and</b>	)	
	)	<b>Case No. 6-CA-37135</b>
<b>PENNSYLVANIA SOCIAL SERVICES</b>	)	
<b>UNION, LOCAL 668,</b>	)	
<b>a/w SERVICE EMPLOYEES</b>	)	
<b>INTERNATIONAL UNION</b>	)	
	)	

**CHARGING PARTY’S MOTION FOR TRANSFER AND SUMMARY JUDGMENT**

Pursuant to Section 102.24 of the Rules and Regulations of the National Labor Relations Board (“Board”), Pennsylvania Social Services Union, Local 668, a/w Service Employees International Union (“Union”), through its undersigned counsel, files the within Motion for Transfer and Summary Judgment, of which the following is a statement:

1. On or about August 19, 2010, in Case 6-RC-12692, the Union was certified as the exclusive collective bargaining representative of a unit of employees employed by the Respondent, Mars Home for Youth.
2. On or about October 4, 2010, the Union requested that the Respondent bargain collectively with the Union as exclusive collective bargaining representative of the unit.
3. On or about October 21, 2010, the Respondent failed and refused to bargain collectively with the Union, and it continues to do so.
4. On or about October 25, 2010, the Union filed a timely Charge of Unfair Labor Practices against the Respondent, alleging the Respondent’s refusal to recognize and bargain with the Union.
5. On or about November 2, 2010, the Union amended the Charge.

6. On or about November 4, 2010, the Regional Director for Region Six issued a Complaint resulting from the Amended Charge and alleging the Respondent's refusal to recognize and bargain with the Union.

7. On or about November 18, 2010, the Respondent filed an Answer to the Complaint.

8. In its Answer, the Respondent admits, *inter alia*, that the Union was certified as the exclusive collective bargaining representative of a unit of the Respondent's employees (Answer ¶ 9); that the Union had requested to bargain with the Respondent (*id.* ¶ 11); and that the Respondent had failed and refused to recognize and bargain with the Union (*id.* ¶ 12).

9. The Respondent generally denied certain allegations of the Complaint. Pursuant to Section 102.20 of the Board's Rules and Regulations, these non-specific denials must be deemed admissions.

10. The Respondent denied, *inter alia*, that the unit is an appropriate one for collective bargaining purposes within the meaning of the National Labor Relations Act (Answer ¶ 8), and that the Board's certification of the Union as exclusive collective bargaining representative of the unit was "proper, correct or legally enforceable" (*id.* ¶ 9). These denials represent legal arguments that raise no genuine issues of material fact.

11. Also in its Answer, the Respondent raised several defenses to the Complaint. The Respondent either raised these legal arguments or had the opportunity to do so in the representation proceedings that culminated in the Union's certification as exclusive collective bargaining representative. The Respondent raises no new factual issues or special circumstances warranting a hearing.

12. As a defense, the Respondent asserts that the Union's certification as exclusive collective bargaining representative of the unit is invalid because "the inclusion of supervisors in the voting group had a coercive effect on the outcome of the election." To the extent this may be a legally cognizable defense, the Respondent waived it by failing to file objections to the conduct of the election.

13. Because the Respondent admits the Complaint's key allegations (either expressly or through general denials, which must be deemed admissions) and its denials raise only legal arguments rather than factual issues, no genuine issues of material fact are present. Therefore, this case is appropriate for summary judgment and should be transferred to the Board.

14. The General Counsel of the Board is seeking transfer of the case and summary judgment in its favor through a separate motion, which the Union supports.

WHEREFORE, the Union respectfully requests that this case be transferred to the Board and that the Board grant summary judgment in favor of the Union as Charging Party.

Respectfully submitted,

/s/ Claudia Davidson

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Counsel for the Charging Party

Dated: November 24, 2010

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing CHARGING PARTY'S MOTION FOR TRANSFER AND SUMMARY JUDGMENT has been served upon the following electronically and by U.S. Mail this 24<sup>th</sup> day of November, 2010:

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/s/ Claudia Davidson  
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