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**Regency Grande Nursing and Rehabilitation Center and SEIU 1199 New Jersey Health Care Union and Local 300s, Production Services and Sales District Council, United Food and Commercial Workers International Union.** Cases 22–CA–28331, 22–CA–28384, 22–RC–12889, and 22–RC–12895

August 23, 2010

DECISION, ORDER, AND CERTIFICATION OF REPRESENTATIVE

BY CHAIRMAN LIEBMAN AND MEMBERS SCHAUMBER AND BECKER

On September 3, 2009, the two sitting members of the Board issued a Decision, Order, and Certification of Representative in this proceeding, which is reported at 354 NLRB No. 75<sup>1</sup>. Thereafter, the Respondent filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit, and the General Counsel filed a cross-application for enforcement. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained. Thereafter, the Board issued an order setting aside the above-referenced decision and order, and retained this case on its docket for further action as appropriate.

<sup>1</sup> Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.<sup>2</sup>

The Board has considered the judge’s decision and the record in light of the exceptions and briefs and has decided to affirm the judge’s rulings, findings, and conclusions and to adopt the recommended Order to the extent and for the reasons stated in the decision reported at 354 NLRB No. 75, which has been set aside and which is incorporated by reference.<sup>3</sup>

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for SEIU 1199 New Jersey Health Care Union, and that it is the exclusive collective-bargaining representative of the employees defined in the Stipulated Election Agreement:

All full-time and regular part time licensed practical nurses, certified nursing assistants, housekeeping employees, dietary employees, cooks, laundry aides, recreational aides, nurses aides, and maintenance employees working at Respondent’s 65 North Sussex Street, Dover, New Jersey facility EXCLUDING registered nurses, all other professional employees, guards and supervisors as defined in the Act.

Dated, Washington, D.C. August 23, 2010

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Wilma B. Liebman, Chairman

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Peter C. Schaumber, Member

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Craig Becker, Member

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<sup>2</sup> Consistent with the Board’s general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the members who participated in the original decision. Furthermore, under the Board’s standard procedures applicable to all cases assigned to a panel, the Board Members not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision.

The Respondent has filed a motion requesting that Members Pearce and Becker recuse themselves from participating in this proceeding. Member Pearce is recused, and has taken no part in considering this case. The Respondent’s motion requests that Member Becker be recused as a result of his having served as “General Counsel of the SEUI when ‘Article XX’ and other internal ‘no raiding’ issues were litigated between Local 300, UFCW, the party of interest in this case, and SEIU Local 1199.” Member Becker played no role in and has no knowledge of the referenced art. XX proceedings. He served as counsel to the Service Employees International Union prior to his service on the Board, but never as general counsel to the Union. Consistent with the principles set forth in *Service Employees Local 121RN (Pomona Valley Hospital Medical Center)*, 355 NLRB No. 40 (2010), the Respondent’s request for Member Becker to recuse himself is denied.

<sup>3</sup> We find it unnecessary to rely on *Hanson Material Service Corp.*, 353 NLRB 71 (2008), cited at 354 NLRB No. 75, slip op. at 3 fn. 11.