

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 20, SUBREGION 37

HTH CORPORATION, PACIFIC BEACH	)	CASES	37-CA-7311
CORPORATION, and KOA	)		37-CA-7334
MANAGEMENT, LLC, a SINGLE	)		37-CA-7422
EMPLOYER, d/b/a PACIFIC BEACH	)		37-CA-7448
HOTEL	)		37-CA-7458
	)		37-CA-7476
and	)		37-CA-7478
	)		37-CA-7482
	)		37-CA-7484
	)		37-CA-7488
	)		37-CA-7537
	)		37-CA-7550
	)		37-CA-7587
HTH CORPORATION d/b/a PACIFIC)		
BEACH HOTEL,)		
)		
and	)	CASE	37-CA-7470
)		
KOA MANAGEMENT, LLC d/b/a)		
PACIFIC BEACH HOTEL)		
)		
and	)	CASE	37-CA-7472
)		
PACIFIC BEACH CORPORATION d/b/a)		
PACIFIC BEACH HOTEL)		
)		
and	)	CASE	37-CA-7473
)		
INTERNATIONAL LONGSHORE AND)		
WAREHOUSE UNION, LOCAL 142)		
(2011-022).)		
)		

ILWU'S REPLY BRIEF IN SUPPORT OF EXCEPTIONS

CERTIFICATE OF SERVICE

Of Counsel:
TAKAHASHI and COVERT
Attorneys at Law

REBECCA L. COVERT
345 Queen Street,
Honolulu, Hawaii
Telephone Number:

#6031-0
Room 506
96813
526-3003

Attorney for charging party International
Longshore and Warehouse Union Local 142

TABLE OF CONTENTS

	Page #
I. INTRODUCTION.....	1
II. ARGUMENT	1
A. THE ABSENCE OF ANY ALLEGATION SPECIFICALLY IDENTIFYING SHOGUN EMPLOYEES IS NOT PRECONDITION TO AWARD A REMEDY	1
B. ANY CONCERNS OF THE SCOPE OF REMEDY UNDER THESE FACTS CAN BE ADDRESSED IN THE COMPLIANCE STAGE OF PROCEEDINGS	9
III. CONCLUSIONS.....	10

TABLE OF AUTHORITIES

FEDERAL COURT CASES

Bill Johnson's Restaurants, Inc. v. N.L.R.B., 461 U.S. 731 (1983) 8

Chesapeake and Potomac Telephone Company v. N.L.R.B., 687 F.2d 633 (2nd Cir. 1982)..... 7

First National Maintenance Corp. v. N.L.R.B., 452 U.S. 666 (1981)..... 3

McKenzie Engineering Co v. N.L.R.B., 182 F.3d 622 (8th Cir. 1999) 5, 9

N.L.R.B. v. Circle Bindery, Inc., 536 F.2d 447 (1st Cir. 1976)..... 9

N.L.R.B. v. Edgar Spring, Inc., 800 F.2d 595 (6th Cir. 1986)..... 9

N.L.R.B. v. Pan American Grain Co., Inc., 448 F.3d 465 (1st Cir. 2006)..... 3

N.L.R.B. v. Powell Electrical Manufacturing Co., 906 F.2d 1007 (5th Cir. 1990) 10

N.L.R.B. v. Seaport Printing & Ad. Specialties, Inc., 589 F.3d 812 (9th Cir. 2009)..... 4

N.L.R.B. v. Teamsters & Allied Workers, Hawaii Local 996, 313 F.2d 655 (9th Cir. 1963)..... 9

Sure-Tan, Inc. v. N.L.R.B., 467 U.S. 883 (1984) 8

Tex Tan Welhausen Co. v. N.L.R.B., 419 F.2d 1265 (5th Cir. 1969), judgment vacated on other grounds 397 U.S. 819 (1970)..... 4, 5

The Frito Co. v. N.L.R.B., 330 F.2d 458 (9th Cir. 1964) 6

U.S. Marine Corp. v. N.L.R.B., 944 F.2d 1305 (7th Cir. 1991) 3

NLRB AGENCY CASES

American Press, 280 N.L.R.B. at 943-44..... 3

Atlantic Coast Fisheries, 183 NLRB No. 77 (1970) 3

Daka, Inc., 310 N.L.R.B. 201 (1993) 9

Holder Construction Co., 327 N.L.R.B. 326 (1998)..... 7

<u>HTH Corp.</u> , 356 N.L.R.B. No. 182 (2011).	5, 8
<u>Marchese Metal</u> , 270 N.L.R.B. 293 (1984).....	9, 10
<u>Schnadig Corp.</u> , 265 N.L.R.B. 147 (1982).....	6, 8
<u>Shortway Suburban Lines</u> , , 286 N.L.R.B. at 329-30	2
<u>State Distributing</u> , 282 N.L.R.B. at 1048-50.....	3
<u>Sumo Container Station, Inc.</u> , 317 N.L.R.B. 383 (1995).....	5, 6
<u>Transmarine Navigation Co.</u> , 170 N.L.R.B. 389 (1968).....	4
<u>Williams Pipeline Co.</u> , 315 N.L.R.B. 630 (1994).....	2

ILWU'S REPLY BRIEF IN SUPPORT OF EXCEPTIONS

I. **INTRODUCTION**

In its answering brief the Respondents HTH Corporation, Pacific Beach Corporation, and Koa Management, LLC (“Employer” or “Respondents”) contend that: 1) the scope of the complaint did not specifically include Shogun employees (Ans. Br. at 4-6); 2) the General Counsel never intended to include the Shogun employees and ILWU’s amendments to 37-CA-7478 supports that conclusion (Ans. Br. at 6-10); and 3) the issue of reopening the record is moot where the General Counsel stated he had no further evidence or argument to present on this matter. (Ans. Br. at 10). The International Longshore and Warehouse Union Local 142, AFL-CIO, (“ILWU” or “Union”) submits there is no merit to these contentions for the following reasons and grounds:

- (1) ALJ Cracraft erred in finding the circumstances did not warrant the exercise of the Board's broad remedial authority where ALJ Kennedy and the Board found the unilateral closing of the Shogun Restaurant violated the Act and the unilateral closing of the Shogun Restaurant was “closely connected to the subject matter of the complaint” that was fully litigated;
- (2) The intent of the General Counsel is a consideration but not controlling on the Board in deciding what remedy is necessary to maintain the intent and integrity of the Act; and
- (3) By revising 37-CA-7478 the ILWU was not waiving any remedy for the Shogun employees;
- (4) Any due process concerns would be limited to the Respondents ability to show the remedy for the violation of the unilateral closing of the Shogun Restaurant is defined by a duty to bargain the effect of the closing and not the decision, which could be addressed in the compliance stage of the case.

II. **ARGUMENT**

A. THE ABSENCE OF ANY ALLEGATION SPECIFICALLY IDENTIFYING SHOGUN EMPLOYEES IS NOT PRECONDITION TO AWARD A REMEDY

The Employer does not dispute ILWU’s contention that paragraph 11(c) of the consolidated complaint was drafted such it could include the Shogun employees. (Ans. Br. at 4-5). Instead, the Respondents argue the complaint’s lack of an allegation specific to the Shogun closing

or Shogun employees precludes a remedy here. The Employer cites to no case law to support their argument that Shogun employees are without any remedy because they were not identified with specificity in the complaint. “It is well settled that the Board may find and remedy a violation even in the absence of a specified allegation in the complaint if the issue is closely connected to the subject matter of the complaint and has been fully litigated.” Williams Pipeline Co., 315 NLRB 630, 630 (1994) (quoting Pergament United Sales, 296 NLRB 333, 334 (1989), enf’d, 920 F.2d 130 (2d Cir. 1990)). Here the general refusal to recognize and bargain at all with the ILWU was alleged and the Employer had adequate opportunity to argue why it had no duty to bargain on any subject including the closing of Shogun. These facts are sufficient to allow a remedial award that includes the Shogun employees.

In its opposition to the exceptions sought by the ILWU, the Employer does not argue it was prejudiced if by ILWU’s exception the closing of Shogun Restaurant could be a basis for a remedy to those employees. Where the complaint generally alleged the Employer’s refusal to recognize or bargain with the Union and violations of the Act to discourage employees from supporting their union, the unilateral closing of the Shogun is subsumed in those two issues, satisfying due process concerns if a remedy is awarded specific to Shogun employees.

Finally, U.S. Marine claims that imposition of the status quo ante remedy offends due process because the unfair labor practice charge did not allege that the company had violated the Act by setting the initial terms of employment in January 1984 without first consulting with the Union. First, the charge specifically alleged that the company had violated section 8(a)(3) and (5) of the Act by refusing to hire thirty-four former Chrysler employees in order to avoid a bargaining obligation and by refusing to bargain with the Union. The remedy ordered in this case is based on the established principles applicable to successors who discriminate in order to avoid a bargaining obligation; such employers lose the right to set initial terms and conditions of employment and may be ordered to rescind any changes in those terms and compensate employees for losses in order to put them in the position they would have been but for the employer's unlawful conduct. E.g., Shortway Suburban Lines, 286 N.L.R.B. at 329-30; State Distrib., 282 N.L.R.B. at 1048-50; American Press, 280 N.L.R.B. at 943-44. Thus, as the Board concluded, the illegal nature of the

unilateral changes was subsumed in the broader section 8(a)(3) and (5) allegations and violations involved in the case. Consequently, U.S. Marine was “on notice that the Board might apply an appropriate remedy in its power should the Board find the violations alleged.” D & O at 11. (Emphasis added).

U.S. Marine Corp. v. N.L.R.B., 944 F.2d 1305, 1323 (7th Cir. 1991). Compare with Atlantic Coast Fisheries, 183 NLRB No. 77 (1970).

Here the facts support a similar conclusion as in *U.S. Marine*. First, the complaint alleged generally that as of November 30, 2007 the Respondent had terminated an unknown number of employees and had done so without first bargaining with the Union. App. 3-12 to 3-13. The complaint also alleged that Respondents failed to recognize and bargain with the Union. App. 3-14. Second, the remedy when an employer implements a unilateral change without first bargaining with the Union is well settled, depending on whether there was a duty to bargain on the decision itself or on the effect. See First Nat’l Maintenance Corp. v. N.L.R.B., 452 U.S. 666 (1981) (finding that even if no duty to bargain on decision employer was still under an obligation to bargain over the effects of the employees whose employment status would be altered by the managerial decision). Presumably whether the remedy is one appropriate for failing to bargain on the decision or effect is one that was to have been decided by the administrative law judge, reopening the record if necessary.

In N.L.R.B. v. Pan American Grain Co., Inc., 448 F.3d 465 (1st Cir. 2006), the court found it premature to confirm the Board’s order that required the employer, whom the Board found had violated its duty to bargain with the union over an employment termination decision, to reinstate terminated employees with back pay. The court reasoned that remand was first necessary to determine if the employer had a duty to bargain over the layoff decision itself or only the as effects. Id. The distinction was necessary as the remedy for failing to bargain on the effects of the partial closing is a limited back pay remedy. See Transmarine Navigation Co., 170 NLRB 389

(1968). On remand in this case the record could have been opened to decide if the Respondents' duty was to bargain the Shogun Restaurant decision when the remedy would include reinstatement of employees as well as backpay. Alternatively, if on remand the violation was found to be the failure to bargain on the effects of the Shogun closing, the Board could order the type of back pay described in Transmarine Navigation Co., supra, "to make whole the employees for losses suffered as a result of the Respondent's failure to bargain with the Union about the effects of its layoff decision" N.L.R.B. v. Seaport Printing & Ad. Specialties, Inc., 589 F.3d 812, 815 (9th Cir. 2009). See also infra Part III.B (pursuing any issue on the nature of the Shogun employees remedy at compliance).

In Tex Tan Welhausen Co. v. N.L.R.B., 419 F.2d 1265 (5th Cir. 1969), judgment vacated on other grounds 397 U.S. 819 (1970) (finding Board cannot require an employer or union to agree to any substantive contractual provision of a collective bargaining agreement), the Fifth Circuit explained where an employer generally refuses to recognize and bargain with the union, remedies for related conduct not specifically alleged in the complaint do not offend due process.

Tex Tan's second objection is that the Trial Examiner deprived it of due process by making findings on matters not alleged in the complaint. In particular Tex Tan contends that the insistence on unilateral control of pay for pieceworkers, the refusal to bargain about pay rates, the overall approach to bargaining, and certain of the examples of overall bad faith were not alleged in the complaint. While it is true that these matters were not specifically alleged in these words in the complaint, we find Tex Tan's contention that it has been harmed by this omission without merit. To begin with, there was a specific allegation in the complaint that Tex Tan had negotiated in bad faith with no intent to enter a contract with the Union. This court has recently held that such an allegation brings into question 'the general course of the Company's conduct as it reflected its attitude toward bargaining.' NLRB v. Mayes Bros., Inc., 5 Cir. 1967, 383 F.2d 242, 247. Each of the Trial Examiner's specific findings to which Tex Tan objects was apposite to the issue of the Company's attitude toward bargaining and therefore under the Mayes Bros. rule was fairly comprehended in the language of the complaint. See also NLRB v. Southwestern Porcelain Steel Corp., 10 Cir. 1963, 317 F.2d 527. (Emphasis added).

419 F.2d at 1269-70. The court went on to note that both parties had fully litigated the issue of good faith bargaining with the Board and concluded, “the Company has not been prejudiced by the failure of the complaint to articulate in precise detail each and every example of behavior which indicates that the Company negotiated in bad faith.” Id. The Respondents general failure to recognize and bargain with the Union, App. 3-12, Op. Br. ¶9 (a) & (c), sufficiently relates to conduct arising in November-December 2007 that was fully litigated.

In McKenzie Engineering Co v. N.L.R.B., 182 F.3d 622 (8th Cir. 1999), the employer challenged the Board’s finding it had terminated employees because of their union membership as part of a plan to repudiate the collective bargaining agreement. The complaint alleged the employees were terminated because they “‘assisted the Union and engaged in concerted activities,’ not because of their union membership.” Id. at 626. The employer claimed it was denied due process faced with a new theory of liability. The Court disagreed. Because the court found “a significant portion of the litigation in this case focused on whether McKenzie discharged the employees in question as an integral part of its plan to terminate its relationship with the union” it found no violation of due process. Id. at 627. Similarly here a significant portion of the litigation focused on whether the Employer failed to recognize and bargain with the Union as part of a plan to end union representation at the hotel, 356 NLRB No. 182, slip op. at 36-37, and therefore a finding that the Employer “unilaterally and without bargaining with the Union closed the Shogun Restaurant,” Slip. Op. at 8, would not violate Respondents’ due process.

The Employer argues the counsel for the General Counsel stated that Shogun employees were not included in the allegations found in paragraph 11 (c) of the complaint. The Employer does not dispute that the closing of the Shogun Restaurant arguably comes under the general allegations of the complaint. This fact distinguishes Sumo Container Station, Inc., 317

NLRB 383 (1995) (Ans. Br. at 5), where the Board found “the complaint not only failed to allege these matters with particularity, but also that there was no paragraph of the complaint which could be construed as reasonably comprehending them.” Id. at 384.

Respondents argue the ILWU’s claim that paragraph 11 (c) can be interpreted to include Shogun employees is “completely fallacious” but its only support is to claim that the General Counsel said that the allegations contained in Paragraph 11 (c) “do not include the Shogun employees.” The Employer does not cite to the record where counsel for the General Counsel made specific reference to paragraph 11 (c) of the Complaint. At the end of the trial General Counsel made no mention to a specific section of the complaint and did not say that no part of the complaint included Shogun employees, only that the complaint “did not allege that the Shogun employees were entitled to *remedy*.” (Tr. 2324) (emphasis added). This statement was made at the end of the case and therefore Respondents cannot show they had knowledge of the General Counsel’s position any time prior to the end of trial. As argued in ILWU’s opening brief, where the Board finds a violation and finds the facts underlying to the violation were litigated, it can still award a remedy in cases even where the General Counsel has disclaimed such remedy. See The Frito Co. v. N.L.R.B., 330 F.2d 458, 465 (9th Cir. 1964). As argued in the opening brief, the intent of the General Counsel (and Union) is immaterial where the Board has full authority over the remedial aspects of its own decision. Schnadig Corp., 265 NLRB 147, (1982); Op. Br. Part V.B. Also as argued above and in the memorandum in support of the exceptions the Employer has not shown how it would have presented its case any differently since its inflexible position was that it was not the employer, it had no duty to bargain, and the union lacked majority status.

The Employer also argues that under the circumstances Shogun employees are not entitled to remedy where ILWU twice amended charge 37-CA-7478 that alleged certain individuals

were not rehired during a rehiring process and in the process removed the names of 11 former Shogun employees., (Ans. Br. at 6). The Respondents are factually incorrect as not all 11 Shogun employees names were on the charge as first filed. Compare App. 2 to Op. Br. with Exh. A-2 of Ans. Br. Nor were the other Shogun employees added to the first amended charge. Compare App. 2 to Op. Br. with Exh. B-2 of Ans. Br. The second amended charge makes clear that 37-CA-7478 was an 8(a)(3) allegation and listed only seven employees for the discrimination allegation of the Complaint. Compare App. 3-14 to Op. Br. with Exh. C of Ans. Br. In fact during the time period the charge was filed and amended the ILWU did not have the lists of employees to even know who definitively worked where at the Hotel. See App. 3-12 (§ 9 (a) & (c) (failed and refused to furnish Union with list of employees names, positions, etc.)); Tr. 2324-25 (at end of trial noting that some information regarding employees remained unknown). These amendments to 37-CA-7478 do not rise to a clear and unmistakable waiver to pursue a remedy for Shogun employees. See Chesapeake and Potomac Telephone Company v. N.L.R.B., 687 F.2d 633, 636-637 (2nd Cir. 1982) (finding union's intent to waive must be shown by clear and unmistakable evidence).

ALJ Cracraft failed to follow the Board's indication that an exception filed from a trial judge decision that raised a new remedy for the first time could warrant favorable review. In Holder Construction Co., 327 NLRB 326 (1998), the Board indicated two exceptions where the remedy might otherwise have been appropriate, the union or employee objecting to the disclaimer of the General Counsel during trial or taking exception to the judge's failure to include a remedy. Id. at 326 n.1. The Board is presumed to choose its words with deliberation and here it indicated a remedy could be awarded although disclaimed by the General Counsel where the objection was raised by the Union in exceptions. That is the case here.

Despite Respondents' efforts to distinguish, Schnadig Corp., 265 NLRB 147 (1982) (Ans. Br. at 9), the case does hold for the proposition offered by ILWU. Although in Schnadig Corp., the trial judge had ordered some remedy for the employees but not the backpay added by the Board, the reasoning of the Board stands, the Board has full authority over the remedial aspects of its decision. Id. at 147. As the U.S. Supreme Court held in Sure-Tan, Inc. v. N.L.R.B., 467 U.S. 883 (1984),

Section 10(c) of the Act empowers the Board, when it finds that an unfair labor practice has been committed, to issue an order requiring the violator to “cease and desist from such unfair labor practice, and to take such affirmative action including reinstatement of employees with or without backpay, as will effectuate the policies” of the NLRA. 29 U.S.C. § 160(c). The Court has repeatedly interpreted this statutory command as vesting in the Board the primary responsibility and broad discretion to devise remedies that effectuate the policies of the Act, subject only to limited judicial review. (Emphasis added).

467 U.S. at 898-99. This authority is particularly well-exercised to “guarantee that employees will be able to enjoy their rights secured by § 7 of the Act-including the right to unionize, the right to engage in concerted activity for mutual aid and protection[.]” Bill Johnson’s Restaurants, Inc. v. N.L.R.B., 461 U.S. 731, 740 (1983). Where in a case as here the Board found Respondents engaged in repeated, ongoing efforts to impede the rights of employees at the Pacific Beach Hotel to select and be represented by the ILWU, 356 NLRB No. 182 slip op. at 1, the remedy sought by the ILWU is within the proper authority of the Board.

Finally ILWU notes that its exceptions are not moot. The General Counsel’s position before Judge Cracraft on the issue of whether reopening the record was appropriate for Shogun employees (Ans. Br. at 10), does not mean the General Counsel would pursue no remedy if now ordered by the Board. As stated in cases cited herein, “whether counsel for the General Counsel seeks a backpay remedy is immaterial since we have full authority over the remedial aspects of our decisions.” Schnadig Corp., 265 NLRB at 147.

B. ANY CONCERNS OF THE SCOPE OF REMEDY UNDER THESE FACTS CAN BE ADDRESSED IN THE COMPLIANCE STAGE OF PROCEEDINGS

Even if the record is not reopened, the administrative law judge exceeded her authority in finding no remedy available to former Shogun employees where, the Board having found the violation, the compliance stage could determine the scope of the remedy, which also addresses any due process concerns raised by the Respondents. See N.L.R.B. v. Teamsters & Allied Workers, Hawaii Local 996, 313 F.2d 655, 659 (9th Cir. 1963); See also N.L.R.B. v. Edgar Spring, Inc., 800 F.2d 595 (6th Cir. 1986) (finding issue of whether workers who were improperly discharge were later recalled could be relitigated in compliance stage); N.L.R.B. v. Circle Bindery, Inc., 536 F.2d 447, 449 n.3 (1st Cir. 1976) (noting that where Board found unclear whether employee had been hired by employer temporarily or offered permanent employment while ordering reinstatement and backpay, the Board left open for determination at the compliance stage the precise terms and scope of the reinstatement and backpay orders). At compliance an employer has “a full opportunity to litigate the appropriateness of the NLRB's remedy and to avoid the reinstatement obligation altogether.” McKenzie Engineering Co., 182 F.3d at 629; See also Tr. 2325 (discussion that if certain employees not identified were entitled to a remedy it would be a compliance issue).

Where as here the Employer continued to operate restaurant outlets on the property and retained food and beverage employees, such issues as back pay or placement of former Shogun employees in vacant positions can be addressed at compliance. See Daka, Inc., 310 NLRB 201, 201 (1993) (finding extent of remedy best addressed at compliance where Board could consider employment fate of the employees still working for the Respondent when it ceased its operations at the facility that was the subject of the complaint). In Marchese Metal, 270 NLRB 293 (1984), while discussing the remedy related to a violation not specifically alleged in the complaint to an election

proceeding, the Board discussed the procedure if specific references were not included in a complaint.

In the absence of exceptions thereto, Chairman Dotson adopts pro forma the judge's findings that Dennis Marchese threatened employees by stating that he would close the shop if the employees had signed union cards because he could not pay the Union's rates, and that Marchese created the impression of surveillance by telling employee Dashner that he knew Dashner voted against the Union and employee Teskovich voted for it. Chairman Dotson also adopts pro forma the judge's finding that, despite the lack of a specific allegation in the complaint, the Respondent unlawfully discharged employee Casaine on 2 October 1982.

The Respondent excepts to the provision in the judge's remedy which requires that Casaine be offered reinstatement. The Respondent contends that such provision is not appropriate because Casaine declined an offer of reinstatement made by the Respondent after the close of the hearing. In view of the limited record evidence concerning the matter, we shall leave the issue of Casaine's reinstatement to the compliance phase of this proceeding. (Emphasis added).

270 NLRB at 293.

In N.L.R.B. v. Powell Elec. Mfg. Co., 906 F.2d 1007 (5th Cir. 1990), the Court held that the Board could allow an employer "to challenge the remedy as to each employee at the compliance stage." Id. at 1016 (involving 8a5 and 8a1 violations and ordering reinstate of strikers). Here, instead of finding no remedy appropriate under the Board's remedial power, ALJ Cracraft should have ordered a make-whole remedy and if deciding not to open the record, left to compliance whether that remedy was under a duty to bargain a decision or effect standard.

VI. **CONCLUSIONS**

For all of the aforementioned reasons, the ILWU respectfully requests that the Board sustain the Union's exceptions to the ALJ's Supplemental Decision on Remand. The Board should find Shogun employees are entitled to a remedy and either determine the scope of the remedy or remand to reopen the record to determine the scope of remedy or leave to compliance stage.

DATED: Honolulu, Hawaii, December 12, 2011.

/s/ Rebecca L. Covert
REBECCA L. COVERT, Attorney for Union

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 20, SUBREGION 37

HTH CORPORATION, PACIFIC BEACH	)	CASES	37-CA-7311
CORPORATION, and KOA	)		37-CA-7334
MANAGEMENT, LLC, a SINGLE	)		37-CA-7422
EMPLOYER, d/b/a PACIFIC BEACH	)		37-CA-7448
HOTEL	)		37-CA-7458
	)		37-CA-7476
and	)		37-CA-7478
	)		37-CA-7482
	)		37-CA-7484
	)		37-CA-7488
	)		37-CA-7537
	)		37-CA-7550
	)		37-CA-7587
HTH CORPORATION d/b/a PACIFIC)		
BEACH HOTEL,)		
)		
and	)	CASE	37-CA-7470
)		
KOA MANAGEMENT, LLC d/b/a)		
PACIFIC BEACH HOTEL)		
)		
and	)	CASE	37-CA-7472
)		
PACIFIC BEACH CORPORATION d/b/a)		
PACIFIC BEACH HOTEL)		
)		
and	)	CASE	37-CA-7473
)		
INTERNATIONAL LONGSHORE AND)		
WAREHOUSE UNION, LOCAL 142)		
(2011-022))		
)		

CERTIFICATE OF SERVICE

I hereby certify that one copy of the foregoing document was duly served upon the following person by electronic filing and by depositing in the U.S. Mail, postage pre-paid on this date:

Thomas Cestare, Officer in Charge
Dale Yashiki, Counsel for General Counsel
Trent Kakuda, Counsel for General Counsel
National Labor Relations Board
Subregion 37
300 Ala Moana Boulevard, Suite 7-245
Honolulu, Hawaii 96850

dale.yashiki@nlrb.gov

Attorneys for Subregion 37, National Labor Relations Board

Wesley M. Fujimoto, Esq.
Ryan E. Sanada, Esq.
Imanaka Kudo & Fujimoto
Topa Financial Ctr., Fort St. Twr.
745 Fort Street Mall, Suite 1700
Honolulu, Hawaii 96813

wfujimoto@imanakakudo.com
rsanada@imanakakudo.com

Attorneys for Respondents
HTH Corporation, Pacific Beach Corporation, and
Koa Management, LLC

DATED: Honolulu, Hawaii, December 12, 2011.

/s/ Rebecca L. Covert
REBECCA L. COVERT
Attorney for Charging Party International
Longshore And Warehouse Union, Local
142