*Law Office of*
**MORRIS TUCHMAN**

134 Lexington Avenue, New York, New York 10016 - Telephone (212) 213-8899
Telefax (212) 213-6308

Morris Tuchman*
J. Ari Weiss*

*Admitted Connecticut, New York

Correspondence to New York

_____

Long Island Office
35 Dune Road
Westhampton Beach, New York 11978

Executive Secretary
NLRB
Washington, D.C.
**By electronic mail only**

Re: New Vista Nursing and Rehabilitation, LLC

Honorable Sir:

Please be advised that the undersigned represents the Respondent in the above referenced matter.

The Board's June 15, 2012 decision is issued by Members Griffin and Block as well as Member Hayes. Members Griffin and Block were recess appointments of President Obama. The validity of these recess appointments is currently being litigated before various courts. There is dispute whether the Senate was actually in recess when the appointments were made. The Board should reconsider this decision and either 1) recall it until a properly constituted Board can issue it or 2) hold the decision in abeyance until the courts have determined whether the appointments were valid.

The Respondent will be unable to litigate the Board's validity of Members Griffin and Block participating in the June 15, 2012 order in the U.S. Court of Appeals unless it seeks reconsideration of this opinion before the Board. *N.Y. & Presbyterian Hosp. v.*

*NLRB*, 649 F.3d 723, 733 (D.C. Cir. 2011) see also *NLRB v. Snell Island SNF LLC.* Case number 10-4600 (2nd Cir., decided 12/20/2011).

Accordingly, the June 15, 2012 order should be reconsidered as above noted.

Very truly yours,

MORRIS TUCHMAN

MT:pf
cc: Lisa Pollack, Esq. (Electronic mail only)
William Massey, Esq. (Electronic mail only)