



**UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD**

Region 24

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June 29, 2012

████████████████████
PO Box 362905
San Juan, PR 00936-2905

Re: Saint Luke's Memorial Hospital, Inc. d/b/a
Hospital Episcopal San Lucas Ponce
Cases: 24-CA-071324
* 24-CA-076352

Dear ██████████

The Region has carefully investigated and considered your charges against Saint Luke's Memorial Hospital, Inc. d/b/a Hospital Episcopal San Lucas Ponce, alleging violations under Section 8 of the National Labor Relations Act.

Decision to Partially Dismiss: Based on that investigation, I have concluded that further proceedings are not warranted, and I am dismissing those portions of your charge in Case 24-CA-071324 alleging that the Employer: failed to notify the Union of discipline on unit employees; failed to require unit employees to punch in/out at lunch time; and failed to furnish the Union with information requested by letter dated September 23, 2011, specifically, (i) the audited financial statements of the Employer for the years 2008, 2009, and 2010, (ii) the audited financial statements for Servicios de Salud Episcopales, Inc. and Hospital Episcopal Cristo Redentor, Inc. for the years 2008, 2009, 2010, as also requested on October 5, 2011; and, (iii) the Employer's budget plan and accomplishments to date. In essence, the evidence in support of these allegations was insufficient to find a violation of Section 8(a)(5) of the Act.

I am additionally dismissing the portion of the charge alleging that the Employer discriminated against ██████████ by transferring ██████████ to a non-unit position in violation of Section 8(a)(3) as the evidence showed this allegation is time-barred by Section 10(b) of the Act. Although the Union contends it first became aware of the alleged transfer in December 2011, it also admitted receiving a letter dated May 20, 2011 listing the names and classifications all unit employees working for the Employer. This letter excluded the name of the alleged discriminatee, a clear indication that the alleged discriminatee was no longer considered a bargaining unit employee by the Employer. The Board has held that Section 10(b) limitations do not begin to run "until the charging party is on "clear and unequivocal notice", either

actual or constructive, of a violation of the Act. Ohio and Vicinity Regional Council of Carpenters (The Schaefer Group, Inc.) 344 NLRB 366, 367 (2005).

As to the allegation that the Employer refused to allow the union to post union literature on the bulletin board, the investigation showed that the past practice has been followed and therefore no violation was found.

Finally, I am also dismissing the portion of the charge alleging that the Employer discriminated against the Registered Nurses concerning the payment of hours worked according to agreements and past practice. Specifically, the investigation revealed that the change made to the overtime pay of the Registered Nurses was prematurely implemented and/or was implemented without reaching an agreement in the totality of the contract provisions, and as such, it violated Section 8(a)(5), not Section 8(a)(3) of the Act. However, complaint has been authorized alleging a violation of Section 8(a)(5) of the Act.

With respect to the allegation in Case 24-CA-076352 relating to the refusal to provide the Union with relevant financial information for the processing of complaints, as previously determined in Case 24-CA-071324, the investigation failed to reveal evidence of a sufficient nature to find a violation.

As to the allegation that about October 2011 and January 23, 2012, the Employer refused to furnish the Union with payroll records, monthly work schedules, time cards, time and attendance records, and pay stubs relating to employees in the unit, it is noted that this is a duplicate allegation currently being processed further in Case 24-CA-071324, in which complaint was authorized. Finally, with respect to the request for production of pay stubs of employees in the unit, the investigation concluded that this request is duplicative of the information sought through payroll records above.

The above determination will not adversely impact further processing of the charged allegations in the cases of reference found to have merit.

Your Right to Appeal: The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing an appeal with the GENERAL COUNSEL of the National Labor Relations Board. Use of the Appeal Form (Form NLRB-4767) will satisfy this requirement. However, you are encouraged to submit a complete statement setting forth the facts and reasons why you believe that the decision to dismiss your charge was incorrect.

Means of Filing: An appeal may also be filed electronically, by mail, or by delivery service. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax. *To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.* To file an appeal by mail or delivery service, address the appeal to the **General Counsel, National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington, D.C. 20570-0001.** Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date and Time: The appeal is due on July 13, 2012. If you file the appeal electronically, it will be considered timely filed if the transmission of the entire document through the Agency's website is accomplished **no later than 11:59 p.m. Eastern Time** on the due date. If you mail the appeal or send it by a delivery service, it must be received by the General Counsel in Washington, D.C. by the close of business at **5:00 p.m. Eastern Time** or be postmarked or given to the delivery service no later July 12, 2012.

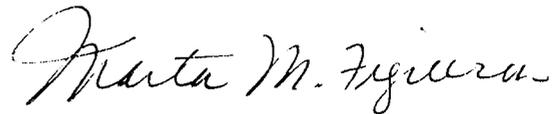
Extension of Time to File Appeal: Upon good cause shown, the General Counsel may grant you an extension of time to file the appeal. A request for an extension of time may be filed electronically, by fax, by mail, or by delivery service. *To file electronically, go to www.nlr.gov, click on **File Case***

Documents, enter the NLRB Case Number and follow the detailed instructions. The fax number is (202) 273-4283. A request for an extension of time to file an appeal **must be received on or before the original appeal due date**. A request for an extension of time that is mailed or given to the delivery service and is postmarked or delivered to the service before the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed electronically, a copy of any request for extension of time should be sent to me.

Confidentiality/Privilege: Please be advised that we cannot accept any limitations on the use of any appeal statement or evidence in support thereof provided to the Agency. Thus, any claim of confidentiality or privilege cannot be honored, except as provided by the FOIA, 5 U.S.C. 552, and any appeal statement may be subject to discretionary disclosure to a party upon request during the processing of the appeal. In the event the appeal is sustained, any statement or material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. Further, we are required by the Federal Records Act to keep copies of documents used in our case handling for some period of years after a case closes. Accordingly, we may be required by the FOIA to disclose such records upon request, absent some applicable exemption such as those that protect confidential source, commercial/financial information or personal privacy interests (e.g. FOIA Exemptions 4, 6, 7(C) and 7(D), 5 U.S.C. § 552(b)(4), (6), (7)(C), and (7)(D)). Accordingly, we will not honor any requests to place limitations on our use of appeal statements or supporting evidence beyond those prescribed by the foregoing laws, regulations, and policies.

-Notice to Other Parties of Appeal: You should notify the other party(ies) to the case that an appeal has been filed. Therefore, at the time the appeal is sent to the General Counsel, please complete the enclosed *Appeals Form* (Form NLRB-4767) and send one copy of the form to all parties whose names and addresses are set forth in this letter.

Very truly yours,



Marta M. Figueroa
Regional Director

Enclosures

cc: Office of Appeals
NLRB, Room 8828, 1099 14th Street, N.W., Washington, DC 20570
[REDACTED]
PO Box 800970, Coto Laurel, PR 00780-0970

FORM NLRB-4767
(07~03)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: Acting General Counsel
Attn: **Office of Appeals**
National Labor Relations Board
Room 8820,
1099th 14th Street, N.W.
Washington, D.C. 20570

Date:

Please be advised that an appeal is hereby taken to the Acting General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

**SAINT LUKE'S MEMORIAL HOSPITAL, INC. DBA
HOSPITAL EPISCOPAL SAN LUCAS PONCE**

Case Name(s)

24-CA-076352

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

FORM NLRB-4767
(07~03)

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(Signature)