



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 19  
915 2ND AVE  
STE 2948  
SEATTLE, WA 98174-1006

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (206)220-6300  
Fax: (206)220-6305

December 13, 2012

[REDACTED]  
UNITE HERE! LOCAL 878  
530 E 4TH AVE  
ANCHORAGE, AK 99501-2624

Re: Columbia Sussex Corp. d/b/a Hilton Anchorage  
Case 19-CA-078070

DEAR [REDACTED]

We have carefully investigated and considered your charge that COLUMBIA SUSSEX CORP. D/B/A HILTON ANCHORAGE has violated the National Labor Relations Act.

**Decision to Dismiss:** The Region has carefully considered and investigated Charging Party's ("UNITE-HERE!, Local 878's") charge that Columbia Sussex Corp. ("the Employer") violated §8(a)(1) and (5) of the Act in that it unilaterally changed employees' terms and conditions of employment when the Employer instituted and applied a new disciplinary process in the Housekeeping Department without providing the Union notice or opportunity to bargain.

However, the investigation of the Charging Party's charge revealed that the Employer did not violate the Act when it implemented disciplinary portion of the management rights clause because the clause does not grant the Employer unfettered discretion that the Board in *McClatchy*<sup>1</sup> found to be inherently destructive of the collective-bargaining process. In that regard, the Board analyzes whether an employer's discretion is limited by "definable objective procedures and criteria."<sup>2</sup> Here, the clause in the collective-bargaining agreement contains definable objective criteria. That is, the Employer's disciplinary policy limits its discretion to impose discipline by providing that any suspension, discipline, or discharge must be "for cause." Such a limitation creates an objective rather than a personal subjective test.

Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision to dismiss your charge was incorrect.

**Means of Filing:** An appeal may 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](http://www.nlr.gov), click on **File Case Documents**, enter

<sup>1</sup> *McClatchy Newspapers, Inc.*, 321 NLRB 1386 (1996), *enfd.* 131 F.3d 1026 (D.C. Cir. 1997)  
<sup>2</sup> *Royal Motor Sales*, 329 NLRB 760, 779 (1999) *enfd.*, 2 F.App'x 1 (D.C. Cir. 2001)

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 at the 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:** The appeal is due on **December 27, 2012**. If you file the appeal electronically, we will consider it timely filed if you send the appeal together with any other documents you want us to consider through the Agency's website so the transmission is completed by **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 Office of Appeals 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 than December 26, 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](http://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 December 27, 2012**. 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:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

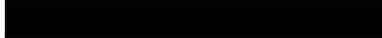
Very truly yours,



RONALD K. HOOKS  
Regional Director

Enclosure

cc GENERAL COUNSEL  
OFFICE OF APPEALS  
FRANKLIN COURT BUILDING  
NATIONAL LABOR RELATIONS BOARD  
1099 14<sup>TH</sup> STREET, NW  
WASHINGTON, DC 20570

  
COLUMBIA SUSSEX CORPORATION  
D/B/A HILTON ANCHORAGE  
c/o TURNER & MEDE  
1500 W 33RD AVE, STE 200  
ANCHORAGE, AK 99503-3505

  
COLUMBIA SUSSEX CORP. D/B/A  
HILTON ANCHORAGE  
c/o TURNER & MEDE  
1500 W 33RD AVE, STE 200  
ANCHORAGE, AK 99503-3505

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UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**APPEAL FORM**

To: General Counsel  
Attn: Office of Appeals  
National Labor Relations Board  
Room 8820, 1099 - 14th Street, N.W.  
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the 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

Columbia Sussex Corp. d/b/a Hilton Anchorage

Case Name(s).

19-CA-78070

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

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*(Signature)*