

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 22

BRISTOL MANOR HEALTH CARE CENTER

and

Case 22-CA-087652

1199 SEIU, UNITED HEALTHCARE  
WORKERS EAST

ACTING GENERAL COUNSEL'S MOTION FOR DEFAULT JUDGMENT

The Acting General Counsel, based on the facts set forth below and the attached documents, moves, pursuant to Section 102.24 of the National Labor Relations Board's Rules and Regulations (the Board's Rules), that the National Labor Relations Board (the Board) issue a Decision and Order, containing findings of fact and conclusions of law in accordance with the Section 8(a)(1) and (5) allegations of the Reissued Complaint in the above-captioned case, (Reissued Complaint), attached hereto as Exhibit 1A, and ordering Bristol Manor Health Care Center (Respondent), to fully remedy the unfair labor practices found, and granting such other, further relief as may be proper in the circumstances.

In support of this Motion, the General Counsel shows and alleges that:

1. On August 17, 2012, 1199 SEIU, United Healthcare Workers East (Charging Party) filed the charge in this case, a copy of which is attached hereto, and marked as Exhibit 1, alleging that Respondent engaged in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, 29 U.S.C. Section 151 et seq. (the Act).
2. Upon the charge described above in paragraph 1, on October 9, 2012, the Regional Director, pursuant to Section 10(b) of the Act and Sections 102.15 of the Board's

Rules, issued respectively, a Complaint and Notice of Hearing (Complaint), a copy of which is attached hereto and marked as Exhibit 2. On October 23, 2012, Respondent filed with the Regional Director its Answer to the Complaint, a copy of which is attached as Exhibit 3.

3. On December 4, 2012, after opening the record for the evidentiary hearing, Administrative Law Judge Steven Davis approved a bilateral informal Settlement Agreement and Notice to Employees (Settlement Agreement), a copy of which is attached hereto and marked as Exhibit 4, as a resolution to the allegations in the charge.

4. The Settlement Agreement contains a provision entitled "Performance," requiring immediate compliance with the Settlement Agreement's terms, and the following provision addressing the event of Respondent's non-compliance with the terms of the Settlement Agreement:

Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Administrative Law Judge, or if the Charging Party or Counsel for the General Counsel does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the Board has sustained the Administrative Law Judge. The Agreement shall be remanded by the Administrative Law Judge to the Regional Director for securing compliance with its terms. The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will reissue the complaint previously issued on October 9, 2012 in the instant case. Thereafter, the General Counsel may file a motion for default judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that the allegations of the aforementioned complaint will be deemed admitted and its Answer to such complaint will be considered withdrawn. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is appropriate to remedy such violations. The parties further agree that a U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte, after service or attempted service upon Charged Party/Respondent at the last address provided to the General Counsel.

5. On April 12, 2013, the Regional Director, by regular mail, notified Respondent that by not sending to the Regional Office the information requested in the Charging Party's June 12, 2012 information request, and the payroll codes associated with information the Respondent subsequently provided to the Charging Party, Respondent was in non-compliance with the Settlement Agreement. A copy of that letter is attached hereto as Exhibit 5.

6. Pursuant to the April 12, 2013 letter referenced above in paragraph 5, the Regional Director advised Respondent that unless full compliance with the Settlement Agreement was achieved by April 26, 2013, the Regional Director would revoke the Settlement Agreement and reissue the Complaint.

7. Pursuant to the performance provision of the December 4, 2012 Settlement Agreement referred to above in paragraph 4, on May 14, 2013, the Acting General Counsel, by the Regional Director, reissued the Complaint, referred to above as the Reissued Complaint, based upon the allegations set forth in the charge referred to above in paragraph 1.

8. As referenced above in paragraph 4, the Settlement Agreement provides that in the event of non-compliance, Respondent will not contest the validity of the allegations made in the Complaint/Reissued Complaint. The Settlement Agreement unequivocally sets forth that the only issue Respondent may raise before the Board is whether Respondent has defaulted on the terms of the Settlement Agreement. The Board has explicitly approved such a provision and found it enforceable. *Insulation Maintenance & Contracting, LLC*, 357 NLRB No. 50 (2011); *Chicago Parking Company*, 356 NLRB No. 72 (2011). Respondent is being afforded the opportunity to raise before the Board any issues with respect to its default.

9. As referenced above in paragraph 4, the Settlement Agreement provides that in the event of non-compliance, the Board may issue an order providing a full remedy for the violations found as is appropriate to remedy such violations and that a U.S. Court of Appeals Judgment may be entered enforcing the Board order. As a result of Respondent's default, the

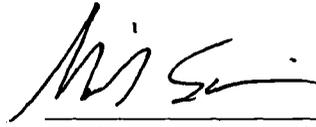
Acting General Counsel seeks an Order requiring Respondent to fulfill all of its undertakings in the December 4, 2012 Settlement Agreement.

In view of the foregoing, the General Counsel respectfully moves that the Board:

- A. Find that Respondent's Answer to the Complaint be considered withdrawn pursuant to the terms of the December 4, 2012 Settlement Agreement; that Respondent has waived its right to file an answer to the Reissued Complaint under the terms of the December 4, 2012 Settlement Agreement; that all allegations of the Reissued Complaint be deemed to be true; and that no hearing is necessary regarding the allegations in the Reissued Complaint;
- B. Find that Respondent violated Section 8(a)(1) and (5) of the Act, as alleged in the Reissued Complaint;
- C. Issue a Decision and Order against Respondent containing findings of fact and conclusions of law based on, and in accordance with, the allegations of the Reissued Complaint, and provide a full remedy for the unfair labor practices alleged.

Dated at Newark, New Jersey this 14<sup>th</sup> day of May 2013.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "M. Silverstein", written over a horizontal line.

Michael P. Silverstein  
Counsel for the Acting General Counsel  
National Labor Relations Board, Region 22  
20 Washington Place, 5<sup>th</sup> Floor  
Newark, New Jersey 07102

Attachments

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of Counsel for the Acting General Counsel's Motion for Default Judgment in Case 22-CA-087652 was served on the following parties on this 14<sup>th</sup> day of May, 2013 as follows:

CERTIFIED MAIL and ELECTRONIC MAIL

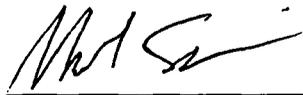
David Jasinski, Esq.  
Jasinski, P.C.  
60 Park Place, 8<sup>th</sup> Floor  
Newark, NJ 07102  
[djasinski@jplawfirm.com](mailto:djasinski@jplawfirm.com)

Ellen Dichner, Esq.  
Gladstein, Reif & Meginnis LLP  
817 Broadway, 6<sup>th</sup> Floor  
New York, NY 10003  
[edichner@grmny.com](mailto:edichner@grmny.com)

REGULAR MAIL

1199 SEIU United Healthcare Workers East  
555 Route 1 South, 3<sup>rd</sup> Floor  
Iselin, NJ 08830

Kristine Giles, Administrator  
Bristol Manor Health Care Center  
96 Parkway  
Rochelle Park, NJ 07662



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Michael P. Silverstein  
Counsel for the Acting General Counsel  
National Labor Relations Board, Region 22  
20 Washington Place, 5<sup>th</sup> Floor  
Newark, New Jersey 07102

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 22**

BRISTOL MANOR HEALTH CARE CENTER

and

Case 22-CA-087652

1199 SEIU, UNITED HEALTHCARE  
WORKERS EAST

**REISSUED COMPLAINT**

Based upon a charge filed by 1199 SEIU, United Healthcare Workers East (“the Union”), a Complaint and Notice of Hearing issued on October 9, 2012 in Case 22-CA-087652, against Bristol Manor Health Care Center (“Respondent”), alleging that it violated the National Labor Relations Act, 29 U.S.C. Section 151 et seq., (the Act) by engaging in unfair labor practices. On December 4, 2012, a Settlement Agreement and Notice to Employees (the Settlement Agreement) in this case was approved, a copy of which is attached as Appendix 1, and pursuant to which Respondent agreed to take certain actions to remedy the unfair labor practices alleged in the Complaint. Respondent has failed to comply with all of the terms of the Settlement Agreement by: failing to furnish the Union with the following requested information as specified in the Settlement Agreement:

- 1) All documents describing holiday pay and all conditions for receiving holiday pay;

Exhibit 1A

- 2) work schedules from January 1, 2012 to the present for all LPNs, recreation aides, dietary, and housekeeping employees, for each shift and department, showing all holidays worked, and all days granted off in lieu of payment to an employee working on a holiday;
- 3) completed "time off request" forms for all bargaining unit employees submitted from January 1, 2012 to the present;
- 4) All documents, including but not limited to the payroll register, for all LPNs, recreation aides, dietary, and housekeeping employees from January 1, 2012 to the present, showing all hours worked and paid, including pay for holiday pay;
- 5) Explanation of the payroll codes: B., B2, BA, BD, BN, BO, BT, C WO, T.

Accordingly, pursuant to the terms of the Settlement Agreement, Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (Board), the Complaint is reissued and alleges as follows:

1. The charge in this proceeding was filed by the Union on August 17, 2012, and a copy was served by regular mail on Respondent on August 21, 2012.
2. (a) At all material times, Respondent, a New Jersey corporation with an office and place of business in Rochelle Park, New Jersey, herein called Respondent's Rochelle Park facility, has been engaged in the business of operating a nursing home and rehabilitation center providing inpatient medical care.  
  
(b) During the preceding twelve months, Respondent has derived gross revenues in excess of \$100,000.

(c) During the period of time described above in paragraph 2(b), Respondent purchased and received at its Rochelle Park facility goods and supplies valued in excess of \$5,000 directly from suppliers located outside the State of New Jersey.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. At all material times, Kristine Giles held the position of Respondent's administrator and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

5. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. (a) The following employees of Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act: All CNAs, dietary, housekeeping, recreational aides, LPNs, and all other employees; excluding professional employees, registered nurses, cooks, confidential employees, office clerical employees, watchmen, guards and supervisors as defined in the Act.

(b) All at material times herein, Respondent has recognized the Union as the exclusive collective bargaining representative of the Unit. This recognition has been embodied in successive collective bargaining agreements, the most recent of which is effective from April 1, 2010 until March 31, 2014.

(c) At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

7. Since about June 12, 2012, the Union has requested, in writing, that Respondent furnish the Charging Party with information described in its June 12, 2012 letter (Exhibit A).

8. The information requested by the Union, as described above in paragraph 7 is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

9. Since about June 12, 2012, Respondent has failed and refused to furnish the Union with the information requested by it as described above in paragraph 7.

10. In disposition of Case 22-CA-087652, Respondent and the Union entered into an informal Board settlement agreement, which was approved by Administrative Law Judge Steven Davis on December 4, 2012.

11. Since about April 26, 2013 and continuously thereafter, Respondent has refused to fully comply with the settlement agreement described above in paragraph 10 by refusing to furnish the Union with the information described above on pages 1 and 2 of this Reissued Complaint.

12. By the conduct described in paragraph 9, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees, in violation of Section 8(a)(1) and (5) of the Act.

13. The unfair labor practices of the Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

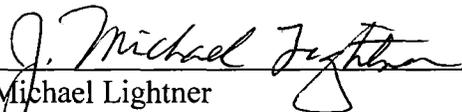
14. By the conduct described above in paragraph 11, Respondent has violated the terms of the informal Board settlement agreement described above in paragraph 10. Accordingly the undersigned

ORDERS, pursuant to Section 101.9(e) (2) of the Board's Rules and Regulations and Statement of Procedure, that the informal settlement agreement entered into in Case 22-CA-087652, is vacated and set aside.

#### ANSWER REQUIREMENT

The Respondent has waived its right to file an answer to the Complaint. By the terms of the Settlement Agreement, the Respondent acknowledged that with its non-compliance with the terms of the Settlement Agreement, the allegations of the Complaint will be deemed admitted and its Answer to the Complaint will be considered withdrawn; that the Acting General Counsel may file a motion for default judgment with the Board on the allegations of the Complaint; and that the only issue that may be raised before the Board is whether the Respondent defaulted on the terms of the Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the Complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Respondent on all issues raised by the Complaint.

Dated at Newark, New Jersey, this 14th day of May, 2013.

  
\_\_\_\_\_  
J. Michael Lightner  
Regional Director  
National Labor Relations Board, Region 22  
20 Washington Place, 5<sup>th</sup> Floor  
Newark, New Jersey 07102

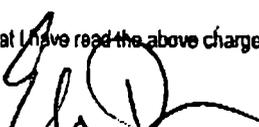
Attachments

INTERNET  
FORM NLRB-501  
(2-06)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**

Case 22-CA-087652	Date Filed August 17, 2012
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**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practices occurred or is occurring.

<b>1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT</b>	
a. Name of Employer Bristol Manor Health Care Center	b. Tel. No. 201-845-0645
	c. Cell No.
d. Address (Street, city, state, and ZIP code) 96 Parkway Rochelle Park, NJ 07862	f. Fax No. 201-845-8822
e. Employer Representative Kristine Giles, Administrator	g. e-Mail
	h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) Nursing Home	j. Identify principal product or service Health Care
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (1st subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)	
Since in or about June, 2012, the above-named Employer has failed and refused to provide information relevant and necessary to a pending grievance and arbitration.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) 1199 SEIU United Healthcare Workers East	
4a. Address (Street and number, city, state, and ZIP code) 655 Route 1 South #301 Iselin, NJ 08830	4b. Tel. No. 732 287 8113
	4c. Cell No.
	4d. Fax No. 732 287 8117
	4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) 1199 SEIU United Healthcare Workers East	
<b>6. DECLARATION</b>	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By  (signature of representative of person making charge)	Ellen Dichner (Print type name and title or office, if any)
817 Broadway, 6th Floor, New York, NY 10003	
8/17/2012 (date)	
Tel. No. 212 228 7727	
Office, if any, Cell No.	
Fax No. 212 228 7854	
e-Mail edichner@grmny.com	

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)****PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
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BRISTOL MANOR HEALTH CARE CENTER

and

Case 22-CA-087652

1199 SEIU, UNITED HEALTHCARE  
WORKERS EAST

**COMPLAINT AND NOTICE OF HEARING**

This Complaint and Notice of Hearing, which is based on a charge filed by 1199 SEIU, United Healthcare Workers East (“the Union”), is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. Section 151 et seq. (“the Act”) and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (“the Board”), and alleges that Bristol Manor Health Care Center (“Respondent”) has violated the Act by engaging in the following unfair labor practices:

1. The charge in this proceeding was filed by the Union on August 17, 2012, and a copy was served by regular mail on Respondent on August 21, 2012.
2. (a) At all material times, Respondent, a New Jersey corporation with an office and place of business in Rochelle Park, New Jersey, herein called Respondent’s Rochelle Park facility, has been engaged in the business of operating a nursing home and rehabilitation center providing inpatient medical care.

(b) During the preceding twelve months, Respondent has derived gross revenues in excess of \$100,000.

(c) During the period of time described above in paragraph 2(b), Respondent purchased and received at its Rochelle Park facility goods and supplies valued in excess of \$5,000 directly from suppliers located outside the State of New Jersey.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. At all material times, Kristine Giles held the position of Respondent's administrator and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

5. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. (a) The following employees of Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All CNAs, dietary, housekeeping, recreational aides, LPNs, and all other employees; excluding professional employees, registered nurses, cooks, confidential employees, office clerical employees, watchmen, guards and supervisors as defined in the Act.

(b) All at material times herein, Respondent has recognized the Union as the exclusive collective bargaining representative of the Unit. This recognition has been embodied in successive collective bargaining agreements, the most recent of which is effective from April 1, 2010 until March 31, 2014.

(c) At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

7. Since about June 12, 2012, the Union has requested, in writing, that Respondent furnish the Charging Party with information described in its June 12, 2012 letter (Exhibit A).

8. The information requested by the Union, as described above in paragraph 7 is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

9. Since about June 12, 2012, Respondent has failed and refused to furnish the Union with the information requested by it as described above in paragraph 7.

10. By the conduct described in paragraph 9, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees, in violation of Section 8(a)(1) and (5) of the Act.

11. The unfair labor practices of the Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before October 23, 2012 or postmarked on or before October 22, 2012**. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties. .

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **File Case Documents**, and enter the

NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to Motion for Default Judgment, that the allegations in the complaint are true.

### **NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on the **4th day of December, 2012, at 9:30 a.m.** and on consecutive days thereafter until concluded, a hearing will be conducted at

the Veterans Administration Building, 20 Washington Place, 5<sup>th</sup> Floor, Newark, New Jersey 07102 before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Newark, New Jersey, this 9th day of October, 2012.

/s/J. Michael Lightner

J. Michael Lightner, Regional Director  
National Labor Relations Board, Region 22  
20 Washington Place, 5<sup>th</sup> Floor  
Newark, New Jersey 07102

Attachments

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 22**

BRISTOL MANOR HEALTH CARE  
CENTER

Case No.: 22-CA-087652

and

1199 SEIU, UNITED HEALTHCARE  
WORKERS EAST

**ANSWER TO COMPLAINT AND NOTICE OF HEARING**

Respondent Bristol Manor Health Care Center by its attorneys, JASINSKI, P.C., by way of Answer to the Complaint and Notice of Hearing (hereinafter the “Complaint”), respectfully states:

Denies the allegations contained in the first unnumbered paragraph of the Complaint.

1. Admits the allegations contained in Paragraph 1 of the Complaint.
- 2(a). Admits the allegations contained in Paragraph 2(a) of the Complaint.
- 2(b). Admits the allegations contained in Paragraph 2(b) of the Complaint.
- 2(c). Admits the allegations contained in Paragraph 2(c) of the Complaint.
- 2(d). Admits the allegations contained in Paragraph 2(d) of the Complaint.
3. Admits the allegations contained in Paragraph 3 of the Complaint.
4. Admits the allegations contained in Paragraph 4 of the Complaint.
5. Admits the allegations contained in Paragraph 5 of the Complaint.
- 6(a). Admits the allegations contained in Paragraph 6(a) of the Complaint.
- 6(b). Admits the allegations contained in Paragraph 6(b) of the Complaint.
- 6(c). Admits the allegations contained in Paragraph 6(c) of the Complaint.

7. Admits the allegations contained in Paragraph 7 of the Complaint.
8. Admits the allegations contained in Paragraph 8 of the Complaint.
9. Denies the allegations contained in Paragraph 9 of the Complaint.
10. Denies the allegations contained in Paragraph 10 of the Complaint.
11. Denies the allegations contained in Paragraph 11 of the Complaint.

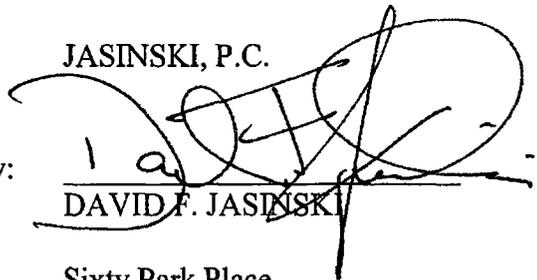
WHEREFORE, having fully answered all counts of the Complaint, Respondent respectfully requests that the Complaint and Notice of Hearing be dismissed in its entirety.

October 23, 2012

Respectfully submitted,

JASINSKI, P.C.

By:

  
DAVID F. JASINSKI

Sixty Park Place  
8<sup>th</sup> floor  
Newark, New Jersey 07102  
T: 973-824-9700  
F: 973-824-6061

*Attorneys for Respondent  
Bristol Manor Health Care Center*

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**SETTLEMENT AGREEMENT**  
APPROVED BY AN ADMINISTRATIVE LAW JUDGE

**IN THE MATTER OF: Bristol Manor Health Care Center**

**Case 22-CA-087652**

The undersigned Charged Party and the undersigned Charging Party, and Counsel for the General Counsel, in settlement of the above matter, and subject to the approval of an Administrative Law Judge for the National Labor Relations Board, **HEREBY AGREE AS FOLLOWS:**

**POSTING OF NOTICE** - Upon approval of this Agreement and receipt of the Notices from the Region, which may include Notices in more than one language as deemed appropriate by the Regional Director, the Charged Party will post immediately in conspicuous places in and about its plant/office, including all places where notices to employees/members are customarily posted, and maintain for 60 consecutive days from the date of posting, copies of the attached Notice (and versions in other languages as deemed appropriate by the Regional Director) made a part hereof, said Notices to be signed by a responsible official of the Charged Party and the date of actual posting to be shown thereon. In the event this Agreement is in settlement of a charge against a union, the union will submit forthwith signed copies of said Notices to the Regional Director who will forward them to the employer whose employees are involved herein, for posting, the employer willing, in conspicuous places in and about the employer's plant where they shall be maintained for 60 consecutive days from the date of posting. Further, in the event that the charged union maintains such bulletin boards at the facility of the employer where the alleged unfair labor practices occurred, the union shall also post Notices on each such bulletin board during the posting period.

**COMPLIANCE WITH NOTICE** - The Charged Party will comply with all the terms and provisions of said Notice.

**NON-ADMISSIONS CLAUSE** — By executing this settlement agreement the Charged Party does not admit that it has violated the National Labor Relations Act, as amended.

**SCOPE OF THE AGREEMENT**- This Agreement settles only the allegations in the above-captioned case, and does not constitute a settlement of any other case or matters. It does not preclude persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters which precede the date of the approval of this Agreement regardless of whether such matters are known to the General Counsel or are readily discoverable. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case for any relevant purpose in the litigation of this or any other case, and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

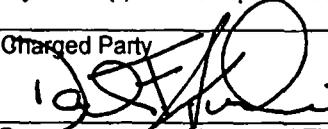
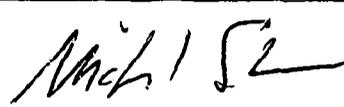
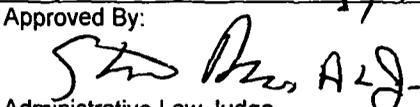
**APPROVAL OF UNILATERAL SETTLEMENT AGREEMENT** - In the event the Charging Party, or Counsel for the General Counsel, fails or refuses to become a party to this Agreement, and if in the Administrative Law Judge's discretion it will effectuate the policies of the National Labor Relations Act, the Administrative Law Judge, after providing such party an opportunity to state on the record or in writing its reasons for opposing the Agreement, may approve the Agreement. Any party aggrieved by the ruling of the Administrative Law Judge approving the Agreement may ask for leave to appeal to the board as provided in Section 102.26 of the Board's Rules and Regulations.

**PERFORMANCE** - Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Administrative Law Judge, or if the Charging Party or Counsel for the General Counsel does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the Board has sustained the Administrative Law Judge. The Agreement shall be remanded by the Administrative Law Judge to the Regional Director for securing compliance with its terms. The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will reissue the complaint previously issued on October 9, 2012 in the instant case. Thereafter, the General Counsel may file a motion for default judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that the allegations of the aforementioned complaint will be deemed admitted and its Answer to such complaint will be considered withdrawn. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is appropriate to remedy such violations. The parties further agree that a U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte, after service or attempted service upon Charged Party/Respondent at the last address provided to the General Counsel.

Exhibit 4

GC)6-

**NOTIFICATION OF COMPLIANCE** - The undersigned parties to this Agreement will each notify the Regional Director in writing what steps the Charged Party has taken to comply herewith. Such notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. In the event the Charging Party or Counsel do not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that no appeal has been filed or that the Board has sustained the Administrative Law Judge. Upon notification of compliance with the terms and provisions hereof and the filing of a motion to withdraw the complaint and no motion in opposition thereto having been granted, the Administrative Law Judge shall issue an order approving the withdrawal of the complaint and notice of hearing heretofore issued in this case, as well as any answer(s) filed in response. Contingent upon compliance with the terms and provisions hereof, no further action shall be taken in this case.

Charged Party		Charging Party	
 - ATTORNEY	12-04-12		
By: Name and Title	Date:	By: Name and Title	Date:
DAVID F. JASIŃSKI	12-04-12	Ellen Dichmer, Attorney	12/4/12
	Date:	Approved By:	Date:
Counsel for the General Counsel	12/4/12	 Administrative Law Judge National Labor Relations Board	12/4/12

(To be printed and posted on official Board notice form)

**FEDERAL LAW GIVES YOU THE RIGHT TO:**

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

**WE WILL NOT** do anything to prevent you from exercising the above rights.

**WE WILL NOT** refuse to provide, or delay in providing the Union with information that is relevant and necessary to its role as your bargaining representative.

**WE WILL** provide the Union with the information it requested on June 12, 2012, July 27, 2012, and August 17, 2012

**WE WILL NOT** in any like or related manner interfere with your rights under Section 7 of the Act.

**BRISTOL MANOR HEALTH CARE CENTER**  
\_\_\_\_\_  
(Employer)

Dated: 12-04-12 By: [Signature] ATTORNEY  
\_\_\_\_\_  
(Representative) (Title)

*The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-866-667-NLRB (1-866-667-6572). Hearing impaired persons may contact the Agency's TTY service at 1-866-315-NLRB. You may also obtain information from the Board's website: [www.nlr.gov](http://www.nlr.gov).*

20 WASHINGTON PL  
FL 5  
NEWARK, NJ 07102-3127

Telephone: (973) 645-2100  
Hours of Operation: 8:30 a.m. to 5 p.m.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 22  
20 WASHINGTON PL  
FL 5  
NEWARK, NJ 07102-3127

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (973)645-2100  
Fax: (973)645-3852  
Agent's Direct Dial: (973)645-3784

April 12, 2013

David Jasinski, Esq.  
Jasinski P.C.  
60 Park Place, 8<sup>th</sup> Floor  
Newark, NJ 07102

Re: Bristol Manor Health Care Center  
Case 22-CA-087652

Dear Mr. Jasinski:

On December 7, 2012, the Informal Settlement Agreement in the above case was approved and by letter dated December 14, 2012, your client, Bristol Manor Health Care Center, was advised of the steps necessary for compliance with the Settlement Agreement. The Settlement Agreement required that Bristol Manor sign, date and post Notices to Employees, and provide the Union, 1199 SEIU United Healthcare Workers East, with the information it requested on June 12, 2012, July 27, 2012 and August 17, 2012. On January 8, 2013, you returned the signed and dated English and Spanish Notice to Employees and Certification of Posting stating that the Notices were posted on December 31, 2012 at the Employer's Rochelle Park, NJ facility.

The information requested on June 12, 2012 included: 1) all documents describing holiday pay and all conditions for receiving holiday pay; 2) all documents reflecting communications between the Employer and Union regarding holiday pay; 3) work schedules from January 1, 2012 to the present, for all unit employees for each shift and department, showing all holidays worked, and all days off granted in lieu of payment to an employee working on a holiday; 4) completed "time off request" forms for all bargaining unit employees submitted from January 1, 2012 to present; and 5) all documents, including but not limited to the payroll register, for all bargaining unit employees from January 1, 2012 to present, showing all hours worked and paid, including pay for holiday pay. This information request was updated on July 27, 2012 to include the same information for the July 4, 2012 holiday. On August 27, 2012, the Union's Attorney, Ellen Dichner, requested the same information covering the holidays of Memorial Day and July 4<sup>th</sup>. On January 4, 2013, you provided some of the information requested, specifically the scheduling and payroll only for the CNAs but no information covering the remaining bargaining unit employees (LPNs, housekeeping, dietary and recreation aides). No "time off request" forms were provided. At that time, the Union requested the explanations for the payroll codes.

Exhibit 5

Despite the Union's follow-up requests for the information on January 30, 2013, as well as Compliance Officer Sarro's requests on February 22, March 1, March 7, March 19 and March 26, no further information was provided until March 29 when you provided the accrued and used holiday information. On April 9, 2013, you were advised by CO Sarro that the schedules and payroll records for LPNs, housekeeping, dietary and recreation aides still had not been provided, there was no explanation of the payroll codes and all "time off request" forms covering January 1, 2012 through the present were still outstanding.

Unless we receive all outstanding information set forth above in this office by April 26, 2013, I intend to revoke this Settlement Agreement and reissue the complaint in this matter without further notice to you or your client pursuant to the terms of the settlement regarding a default judgment spelled out in the paragraph titled "Performance". If you wish to discuss this matter, please contact Compliance Officer Sarro at (973) 645-3784.

Very truly yours,

/s/ J. Michael Lightner

J. Michael Lightner  
Regional Director