UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

HEARTLAND HUMAN SERVICES

and Case 14-CA-096323

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES (AFSCME),
COUNCIL 31, AFL-CIO

COUNSEL FOR THE ACTING GENERAL COUNSEL'S MOTION FOR SUMMARY JUDGMENT

Counsel for the Acting General Counsel (General Counsel), pursuant to Sections 102.20, 102.24, and 102.50 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended (Board's Rules), moves that the proceeding in the above-captioned case be transferred to the Board for final determination on the basis of the pleadings previously filed. As shown from the Table of Exhibits, copies of the Charge, Affidavit of Service of Charge, Complaint and Notice of Hearing, Affidavit of Service of Complaint, Answer, and Amended Answer are attached to this Motion as exhibits and incorporated here by reference.

General Counsel further moves that, upon transfer of this proceeding to the Board, the Board issue an appropriate Order to Show Cause why the instant Motion should not be granted and fix a time for the filing of briefs by the other parties to this proceeding. The brief of the General Counsel is submitted with this Motion.

In support of this Motion, Counsel for the General Counsel alleges that the only issues raised by the Complaint, Answer, and Amended Answer are legal in nature and there are no issues of material fact in dispute that would warrant a hearing in this matter.

June 19, 2013

Respectfully submitted,

Kathy J. Talbott-Schehl, Counsel for the General Counsel
National Labor Relations Board, Region 14
1222 Spruce Street, Room 8.302
St. Louis, MO 63103-2829

TABLE OF EXHIBITS

1(a) Copy of the Charge in Case 14-CA-096323, dated January 14, 2013.

1(b) Affidavit of Service of Charge dated January 15, 2013.

2(a) Complaint and Notice of Hearing, dated March 21, 2013.

2(b) Affidavit of Service of Complaint and Notice of Hearing, dated March 21, 2013.

3(a) Respondent's Answer, dated March 25, 2013.

3(b) Respondent's Amended Answer, dated May 3, 2013.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Counsel for the Acting General Counsel's Motion for Summary Judgment was served via electronic and regular mail on this 19th day of June, 2013 on the following parties:

JEFF BLOEMKER, Executive Director
HEARTLAND HUMAN SERVICES
1200 N 4TH ST
EFFINGHAM, IL 62401-3032
Email: jbloemker@heartlandhs.org

JOHN L. GILBERT, Attorney
SANDBERG PHOENIX & VON GONTARD P.C.
101 W. VANDALIA, SUITE 300
EDWARDSVILLE, IL 62025
Email: jgilbert@sandbergphoenix.com

JEFF BIGELOW, Regional Director
AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES (AFSCME)
COUNCIL 31
615 S 2ND ST
PO Box 2328
SPRINGFIELD, IL 62705-2328
Email: jbigelow@afscme31.org

MELISSA J. AUERBACH, ATTORNEY
CORNFIELD AND FELDMAN LLP
25 E WASHINGTON ST., STE 1400
CHICAGO, IL 60602-1803
Email: mauerbach@cornfieldandfeldman.com

Kathy Talbott-Schehl

Kathy J. Talbott-Schehl, Counsel for the
General Counsel

FORM EXEMPT UNDER 44 U S C 3512

INTERNET FORM NLRB-501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 14-CA-096323	Date Filed 1/14/13

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

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Heartland Human Services		b. Tel. No. (217) 347-7179 c. Cell No.
d. Address *(Street, city, state, and ZIP code)* 1200 North 4th Street Effingham, Illinois 62401-3032	e. Employer Representative Jeff Bloemker, Executive Director	f. Fax No. (217) 342-6716 g. e-Mail jbloemker@heartlandhs.org h. Number of workers employed 40
i. Type of Establishment *(factory, mine, wholesaler, etc.)* non-profit agency	j. Identify principal product or service mental health and substance abuse services	

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 *(list 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)*

The Employer has interfered with employees' rights under the Act and has failed and refused to bargain in good faith with the Union, the exclusive bargaining representative of employees in an appropriate unit. The Employer, by its officers, agents and representatives, has unilaterally changed terms and conditions of employment without affording the Union notice and an opportunity to bargain, as follows: (1) since on or about August 8, 2012, by failing to pay bargaining unit employees the anniversary raises due them; (2) since on or about September 21, 2012, by changing the 401(k) plan and by requiring employees to pay a fee to transfer funds to a new 401(k) provider selected by the Employer; and (3) since on or about September 22, 2012, by increasing the amount employees are required to pay for family health insurance premiums.

3. Full name of party filing charge *(if labor organization, give full name, including local name and number)*
American Federation of State, County and Municipal Employees (AFSCME), Council 31

4a. Address *(Street and number, city, state, and ZIP code)* 615 South Second Street P.O. Box 2328 Springfield, Illinois 62705-2328	4b. Tel. No. (217) 788-2800 4c. Cell No. 4d Fax No. (217) 788-2812 4e. e-Mail jbigelow@afscme31.org

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)* American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO

6. DECLARATION
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By Melissa J. Auerbach
(signature of representative or person making charge)

Melissa J. Auerbach, Attorney
(Print/type name and title or office, if any)

CORNFIELD AND FELDMAN
Address 25 E. Washington St., Suite 1400, Chicago, IL 60602-1803

01/11/2013
(date)

Tel. No. (312) 236-7800
Office, if any, Cell No.
Fax No. (312) 236-6686
e-Mail mauerbach@cornfieldandfeldman.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 inform the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this inf voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

EXHIBIT
tabbies
1(a)

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

HEARTLAND HUMAN SERVICES Charged Party and **AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME), COUNCIL 31** Charging Party	**Case 14-CA-096323**

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on January 15, 2013, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

JEFF BLOEMKER, Executive Director
HEARTLAND HUMAN SERVICES
1200 N 4TH ST
EFFINGHAM, IL 62401-3032

JOHN L. GILBERT, Attorney
HINSHAW & CULBERTSON LLP
101 W VANDALIA ST
STE 200
EDWARDSVILLE, IL 62025-1949

January 15, 2013	Frederick E. Norton, Designated Agent of NLRB
Date	Name
	Frederick E Norton
	Signature

EXHIBIT
1(b)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

HEARTLAND HUMAN SERVICES

Case 14-CA-096323

and

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES (AFSCME),
COUNCIL 31, AFL-CIO

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by American Federation of State, County and Municipal Employees (AFSCME), Council 31, AFL-CIO (Union). It 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 Heartland Human Services (Respondent) has violated the Act as described below:

1

The charge in this proceeding was filed by the Union on January 14, 2013, and a copy was served by regular mail on Respondent on January 15, 2013.

2

A. At all material times, Respondent, an Illinois corporation with an office and place of business located at 1200 North 4th Street, Effingham, Illinois, here called Respondent's facility, has been engaged in providing residential and outpatient mental health services.

EXHIBIT
tabbies
2(a)

B. During the 12-month period ending February 28, 2013, Respondent, in conducting its business operations described above in paragraph 2A, derived gross revenues in excess of $100,000, and purchased and received at its Effingham, Illinois facility goods valued in excess of $20,000 directly from points located outside the State of Illinois.

C. 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, and has been a health care institution within the meaning of Section 2(14) of the Act.

3

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

4

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Jeff Bloemker	-	Executive Director
Debra Johnson	-	Human Resources Director
Charles A. Siler	-	Director of Business Services

5

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

> All full-time and regular part-time employees employed by Respondent at its Effingham, Illinois facility, excluding office clerical and professional employees, guards and supervisors as defined in the Act.

B. On February 1, 2006, the Union was certified as the exclusive collective-bargaining representative of the Unit.

C. The most recent collective-bargaining agreement covering the Unit was effective from August 21, 2009 through August 20, 2011.

D. At all material times since February 1, 2006, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

6

A. On June 4, 2012, pursuant to a petition filed in Case 14-RD-063069, an election was conducted in the Unit.

B. The tally of ballots made available at the conclusion of the election disclosed that 19 ballots were cast for the Union, 18 votes were cast against the Union, and there was one challenged ballot, which was sufficient to affect the results of the election.

C. On June 11, 2012, the Union filed objections to the election.

D. On June 28, 2012, a hearing on the challenged ballot and objections was held.

E. On July 18, 2012, the hearing officer issued a report recommending the challenged ballot be opened and counted. If the revised tally of ballots disclosed that a majority of valid votes had not been cast for the Union, the hearing officer recommended that a rerun election be conducted, having further recommended that three objections be sustained.

F. On August 9, 2012, Respondent filed exceptions to the hearing officer's report.

G. On September 28, 2012, the Board adopted the hearing officer's report, findings, and recommendations.

H. On October 12, 2012, the challenged ballot was opened and counted. The revised tally of ballots disclosed that a majority of valid votes had not been cast for the Union, and a

rerun election will be conducted at an appropriate date, time, and place to be determined by the Regional Director.

I. On March 18, 2013, the Board issued a Decision and Order in Case 14-CA-087886, finding, inter alia, that Respondent violated Section 8(a)(1) and (5) of the Act by withdrawing recognition from the Union as the exclusive collective-bargaining representative of the Unit.

7

A About August 8, 2012, Respondent ceased giving employees raises on their anniversary dates as required by the wage and step schedule set forth in Appendix A of the collective-bargaining agreement described above in paragraph 5C.

B. About September 21, 2012, Respondent changed its 401(k) plan and provider.

C. About September 22, 2012, Respondent increased the premium for family and dependent health insurance benefits.

D. The subjects set forth above in paragraphs 7A through 7C relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

E. Respondent engaged in the conduct described above in paragraphs 7A through 7C without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct.

8

By the conduct described above in paragraph 7, 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.

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

As part of the remedy for the unfair labor practices alleged above in paragraph 7, the Acting General Counsel seeks an Order requiring Respondent to hold a meeting or meetings, scheduled to ensure the widest possible attendance of Unit employees, and have Respondent's Executive Director Bloemker read the Notice to Employees on working time in the presence of a Board agent or, at Respondent's option, have a Board agent read the Notice to Employees during working time in the presence of Respondent's supervisors and agents identified above in paragraph 4.

As part of the remedy for the unfair labor practices alleged above in paragraph 7, the Acting General Counsel seeks an order requiring reimbursement of amounts equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no discrimination.

The Acting General Counsel further seeks, as part of the remedy for the allegations in paragraph 7, that Respondent be required to submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods.

The Acting General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

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 April 4. 2013, or postmarked on or before April 3, 2013. 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.nlrb.gov, click on **File Case Documents**, 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 answer 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 continue to 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 still 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 a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE that on **May 13, 2013, at 1 p.m.**, or as soon thereafter as you may be heard, and on consecutive days thereafter until concluded, a hearing will be conducted at **1222 Spruce Street, Room 8.302, Saint Louis, Missouri**, 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 St. Louis, Missouri, this 21st day of March 2013.

Daniel L. Hubbel, Regional Director
National Labor Relations Board, Region 14
1222 Spruce Street, Room 8.302
Saint Louis, MO 63103-2829

Attachments

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

HEARTLAND HUMAN SERVICES

and

Case 14-CA-096323

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) COUNCIL 31

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **March 21, 2013**, I served the above-entitled document(s) by **certified or regular mail,** as noted below, upon the following persons, addressed to them at the following addresses:

JEFF BLOEMKER , Executive Director HEARTLAND HUMAN SERVICES 1200 N 4TH ST EFFINGHAM, IL 62401-3032	**CERTIFIED MAIL, RETURN RECEIPT REQUESTED** **7011 1570 0000 7483 5481**
JOHN L. GILBERT , Attorney HINSHAW & CULBERTSON LLP 101 W VANDALIA ST., STE 200 EDWARDSVILLE, IL 62025-1949	**REGULAR MAIL**
JEFF BIGELOW, Regional Director AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) COUNCIL 31 615 S 2ND ST PO Box 2328 SPRINGFIELD, IL 62705-2328	**CERTIFIED MAIL** **7011 1570 0000 7483 5498**
MELISSA J. AUERBACH , Attorney CORNFIELD AND FELDMAN 25 E WASHINGTON ST., STE 1400 CHICAGO, IL 60602-1803	**REGULAR MAIL**

March 21, 2013
Date

Harold L. Young, Jr., Designated Agent of NLRB
Name

/s/
Signature

EXHIBIT
2(b)

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE

Case 14-CA-096323

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

(1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).

(2) Grounds must be set forth in ***detail***;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and

(5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

JEFF BLOEMKER, Executive Director
HEARTLAND HUMAN SERVICES
1200 N 4TH ST
EFFINGHAM, IL 62401-3032

JEFF BIGELOW, Regional Director
AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL
EMPLOYEES (AFSCME) COUNCIL 31
615 S 2ND ST
PO Box 2328
SPRINGFIELD, IL 62705-2328

JOHN L. GILBERT, Attorney
HINSHAW & CULBERTSON LLP
101 W VANDALIA ST., STE 200
EDWARDSVILLE, IL 62025-1949

MELISSA J. AUERBACH, Attorney
CORNFIELD AND FELDMAN
25 E WASHINGTON ST
STE 1400
CHICAGO, IL 60602-1803

Form NLRB-4668
(4-05)

SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE THE NATIONAL LABOR RELATIONS BOARD IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

(OVER)

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8 1/2 by 11 inch paper.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations, with respect to the procedure to be followed before the proceeding is transferred to the Board: No request for an extension of time within which to submit briefs or proposed findings to the administrative law judge will be considered unless received by the Chief Administrative Law Judge in Washington, DC (or, in cases under the branch offices in San Francisco, California; New York, New York; and Atlanta, Georgia, the Associate Chief Administrative Law Judge) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously on all other parties, and proof of such service furnished to the Chief Administrative Law Judge or the Associate Chief Administrative Law Judge, as the case may be. A quicker response is assured if the moving party secures the positions of the other parties and includes such in the request. All briefs or proposed findings filed with the administrative law judge must be submitted in triplicate, and may be printed or otherwise legibly duplicated with service on the other parties.

In due course the administrative law judge will prepare and file with the Board a decision in this proceeding, and will cause a copy thereof to be served on each of the parties. Upon filing of this decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, on all parties. At that point, the administrative law judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the administrative law judge's decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be served on the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations. If adjustment appears possible, the administrative law judge may suggest discussions between the parties or, on request, will afford reasonable opportunity during the hearing for such discussions.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

HEARTLAND HUMAN SERVICES	)	
	)	
	)	
and	)	Case No.: 14-CA-096323
	)	
	)	
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) COUNCIL 31, AFL-CIO	)	

ANSWER TO COMPLAINT AND NOTICE OF HEARING

Comes now Respondent, Heartland Human Services (HHS), by its attorneys, Hinshaw & Culbertson LLP, and states as its answer to the Complaint and Notice of Hearing issued in this case which was filed on March 21, 2013 as follows:

1. Respondent admits the allegations of paragraph 1.

2. Respondent admits the allegations of paragraphs 2A, 2B and 2C.

3. Respondent admits the allegations of paragraph 3.

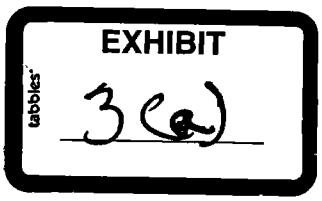
4. Respondent admits the allegations of paragraph 4.

5. Respondent admits the allegations of paragraph 5A, 5B, 5C and 5D.

6. Respondent admits the allegations of paragraphs 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H and 6I.

7. Respondent admits that on or about August 8, 2012, Respondent ceased giving employees raises on anniversary dates. Except as otherwise admitted, Respondent denies the allegations of paragraph 7A as the Collective Bargaining Agreement expired on August 2, 2011. Respondent admits the allegations of paragraph 7B, 7C, 7D and 7E.

8. Respondent denies the allegations of paragraph 8.



9. Respondent denies the allegations of paragraph 9.

AFFIRMATIVE DEFENSE

As its defense to the Complaint and Notice of Hearing in the above-styled cause, Respondent states that Respondent lawfully and upon reasonable evidence that the union no longer enjoyed the support of a majority of the collective bargaining unit withdrew recognition from the union as the exclusive bargaining representative for the members of the collective bargaining unit specified at paragraph 5A.

WHEREFORE, Respondent, Heartland Human Services (HHS), having fully answered the Complaint and based upon Respondent's defense, respectfully requests that the Board dismiss the Complaint and for such other relief as is authorized by law.

Respectfully submitted,

HINSHAW & CULBERTSON LLP

By: John L. Gilbert

John L. Gilbert
Hinshaw & Culbertson LLP
101 West Vandalia Street, Suite 200
Edwardsville, IL 62025
618-310-2388
618-655-0467 Fax

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he has caused a true and correct copy of the foregoing document(s), **Answer to Complaint and Notice of Hearing,** to be served upon:

Mr. Daniel L. Hubbel
Regional Director
National Labor Relations Board
Region 14
1222 Spruce Street, Room 8.302
St. Louis, MO 63103-2829

Mr. Jeff Bigelow
Regional Director
American Federation of State, County and
Municipal Employees (AFSCME) Council 31
615 S. 2nd St., P.O. Box 2328
Springfield, IL 62705-2328

Ms. Melissa Auerbach
Cornfield and Feldman
25 E. Washington St., Ste 1400
Chicago, IL 60602-1803

Mr. Jeff Bloemker
Executive Director
Heartland Human Services
1200 North Fourth St., P.O. Box 1047
Effingham, IL 62401-1047

by causing same to be placed in a sealed envelope(s), clearly addressed as aforesaid, with proper postage fully prepaid, and by depositing same in the United States Mail at Edwardsville, Illinois on the 25 day of March, 2012 at 5:00 p.m.

John L. Gilbert

John L. Gilbert

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14

HEARTLAND HUMAN SERVICES	)	
	)	
	)	
v.	)	Case No. 14-CA-096323
	)	
AMERICAN FEDERAL OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME), COUNCIL 31, AFL-CIO	)	

AMENDED ANSWER TO COMPLAINT AND NOTICE OF HEARING

COMES NOW Respondent, Heartland Human Services (HHS), by its attorneys, Sandberg Phoenix & von Gontard, P.C., and states as follows in its Amended Answer to Complaint and Notice of Hearing issued in this case on March 21, 2013:

1. Respondent admits the allegations of paragraph 1.
2. Respondent admits the allegations of paragraphs 2A, 2B, and 2C.
3. Respondent admits the allegations of paragraph 3.
4. Respondent admits the allegations of paragraph 4.
5. Respondent admits the allegations of paragraphs 5A, 5B, 5C, and 5D.
6. Respondent admits the allegations of paragraphs 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H, and 6I.
7. Respondent admits the allegations of paragraphs 7A, 7B, 7C, 7D, and 7E. Respondent admits that it engaged in the conduct without prior notice and an opportunity to bargain with the Union, but denies that the Union was the Section 9(a) representative of the Union after June 4, 2012.

EXHIBIT
tabbies
3(b)

8. Respondent denies the allegations of paragraph 8.

9. Respondent denies the allegations of paragraph 9.

AFFIRMATIVE DEFENSE

Respondent is not required to bargain collectively and in good faith with the Union because it has a reasonable belief that the Union does not enjoy the majority support of the employees in the collective-bargaining unit. This reasonable belief is based exclusively on the Union's loss of the June 4, 2012 representation election and the Hearing Officer's and Board's erroneous orders for a re-run election in Case 14-RD-063069.

WHEREFORE, Respondent, Heartland Human Services, having fully answered the Complaint, respectfully requests that the Board enter an Order in favor of Respondent and dismissing the Complaint.

SANDBERG PHOENIX & von GONTARD P.C.

By:

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Certificate of Service

The undersigned certifies that a copy of the foregoing was sent by United States mail, postage pre-paid, this 3 day of May, 2013, to the following:

Mr. Daniel L. Hubbel
Regional Director
National Labor Relations Board
Region 14
1222 Spruce St., Rm. 8.302
St. Louis, MO 63103-2829

Mr. Jeff Bigelow
Regional Director
American Federal of State, County and Municipal
Employees (AFSCME) Council 31
615 S. 2nd St.
P.O. Box 2328
Springfield, IL 62705-2328

Ms. Melissa Auerbach
Cornfield and Feldman
25 E. Washington St., Ste. 1400
Chicago, IL 60602-1803

Mr. Jeff Bloemker
Executive Director
Heartland Human Services
1200 N. Fourth St.
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John L. Gilbert

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