



United States Government
NATIONAL LABOR RELATIONS BOARD
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January 13, 2014

VIA E-FILING

Lester A. Heltzer,
Executive Secretary
National Labor Relations Board
Room 11602 East
1099 14th Street, N.W.
Washington, DC 20570-0001

Re: Management & Training Corporation
Cases 04-CA-095456, 04-CA-097114
and 04-CA-104790

Dear Mr. Heltzer:

Attached please find Counsel for the General Counsel's Cross-Exceptions to the Decision of the Administrative Law Judge in the above-captioned matter. Copies of these Exceptions have been served on the persons below by e-mail. I will also be filing separately a Brief in Support of Cross-Exceptions and an Answering Brief to Respondent's Exceptions, which have also been served on the persons below by e-mail.

Very truly yours,

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

MANAGEMENT & TRAINING CORPORATION
d/b/a KEYSTONE JOB CORPS CENTER

and

Cases 04-CA-095456
04-CA-097114 and
04-CA-104790

SERVICE EMPLOYEES INTERNATIONAL UNION
LOCAL 668

**CROSS-EXCEPTIONS OF COUNSEL FOR THE GENERAL COUNSEL
TO THE ADMINISTRATIVE LAW JUDGE'S DECISION**

Pursuant to Section 102.46 of the Board's Rules and Regulations, the undersigned Counsel for the General Counsel files the following Cross-Exceptions to the Decision issued by Administrative Law Judge Arthur J. Amchan on January 30, 2014:

1. The Judge's finding that Heather Rebarchak "apparently stated that she 'said something, but could not recall what she said,'" based on his erroneous reliance on hearsay evidence. (ALJD 4:28-29).
2. The Judge's conclusion that the information sought by the Union's information request was "financial information." (ALJD 6:11 and fn. 2, 7:1 and 7).
3. The Judge's conclusion that the General Counsel failed to carry his burden to show that extra-unit information was relevant to bargaining. (ALJD 6:26-27).
4. The Judge's conclusion that the "Union's requests for information regarding non-unit employees were not tailored to claims or representations by the Respondent..." and that "Respondent...did not make the information requested by the Union relevant by its conduct during the course of bargaining." (ALJD 6:35-37)
5. The Judge's finding that the Union's information request was made on June 29, 2013, rather than June 29, 2012. (ALJD 7:36)
6. The Judge's findings that "the record establishes that some or all of this information was provided verbally in a timely fashion..." and that "[t]he record does not indicate what information was not provided verbally." (ALJD 7:33-34 and 37)
7. The Judge's conclusion that the General Counsel is required to prove that requested information was not provided verbally. (ALJD 8:2-3)

8. The Judge's conclusion that an inference is required in order to find a violation with respect to the demand for a written statement from Heather Rebarchak. (ALJD 8:26)
9. The Judge's conclusion that there is "no basis for me to conclude that Respondent would have disciplined Rebarchak if she had provided a statement."
10. The Judge's conclusion that it was "not unreasonable" to force Rebarchak to provide a written statement in advance of arbitration. (ALJD 8:47-9:1-2)
11. The Judge's failure to find that on April 10, 2012, Respondent explicitly premised its proposal on work boot reimbursement allowance on provisions in its contract with the U.S. Department of Labor.
12. The Judge's failure to find that on May 1, 2012, the Union made an information request by email, shown at GCX 3, as is unrebutted in the record.
13. The Judge's failure to find that on May 8, 2012 and other occasions, Respondent informed the Union verbally that non-unit Security Guards and Recreation staff received wage increases because they were being paid under the Department of Labor mandated minimum wage.
14. The Judge's failure to find that on May 8, 2012, Respondent informed the Union verbally that the unit and non-unit employees were now subject to separate pay grades or scales, whereas previously there had been a single, integrated pay scale, but did not provide the Union copies of the pay scales it described.
15. The Judge's failure to find that in bargaining prior to June 29, 2012, the Union questioned Respondent about rumors that managers and supervisors were receiving bonuses, and were told they did not, including on June 21, 2012, when Michael Martine, Respondent's Center Director, told the Union across the bargaining table that Respondent had not awarded bonuses to non-unit Residential Living Supervisors, and that if there were "under-run" funds available at the end of the contract year, Respondent would have to inform the Department of Labor and request permission to use those funds.
16. The Judge's failure to find that in the past under-run funds have been applied to provide wage increases or bonuses to unit employees.
17. The Judge's failure to find that in October 2012, at the bargaining table, Martha Amundsen asserted on behalf of Respondent that she had forgotten to provide the information about unit employees the Union had requested on June 29, 2012 and Respondent had agreed to provide.
18. The Judge's failure to order Respondent to rescind its April 4, 2013 proposal in its entirety, and return to the bargaining table (ALJD 11:10-11); rescind its demand for Heather Rebarchak's written statement and expunge the statement she made under threat; provide the outstanding requested information in its entirety and cease its related

unlawful conduct, and to include these provisions in the notice appended to his Decision.
(ALJD 12)

19. The Judge's finding that Respondent's proposal on the number of stewards was not regressive. (ALJD 6:3)

Respectfully submitted,



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