

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

SALEM HOSPITAL CORPORATION	:	Case No. 4-CA-097635
A/K/A THE MEMORIAL HOSPITAL OF	:	
SALEM COUNTY	:	
	:	
and	:	
	:	
HEALTH PROFESSIONALS AND	:	
ALLIED EMPLOYEES (HPAE)	:	

RESPONDENT’S MOTION FOR RECONSIDERATION

Salem Hospital Corporation, a/k/a The Memorial Hospital of Salem County (“Salem”), pursuant to Section 102.48 of the Rules and Regulations of the National Labor Relations Board (hereafter, the “Board”), respectfully requests that the Board reconsider the Decision and Order (hereafter, the “Decision”) issued by the Board in the above-captioned case on April 30, 2014, and upon reconsideration, vacate the Decision in the ways requested below.¹

In the Decision, specifically footnote 1, the Board expands the remedies awarded by the Administrative Law Judge (hereafter, the “Judge”)

¹ By setting forth the limited arguments below, Salem does not intend to waive any argument previously presented to the Board, every one of which is hereby expressly preserved. Nor should the Motion now before the Board be construed as any waiver of Salem’s objections to those portions of the Decision that are not specifically addressed below, every one of which, here also, is expressly preserved.

who presided over the hearing. In particular, the Board states: “[w]e shall order Respondent to reinstate any unit employees who may have been discharged under the new dress code policy.” Similarly, the Board issues what is, essentially, a make whole remedy for any unit employees “who may have been discharged or otherwise disciplined under the new policy.” The record developed before the Judge does not even include an allegation that Salem took any disciplinary action against any employee because of her violation of the dress code policy, let alone any evidence that would support such an allegation. Accordingly, these remedies, which were added by the Board *sua sponte*, are not supported by the record and violate the Hospital’s due process rights.

In addition, Salem notes the Hospital’s objection to the other, “independent reason to affirm the judge’s finding . . . [the] revised dress code imposed a new disciplinary process for dress code violations.” 360 NLRB No. 95, Slip Op. at page 2. The Board’s effort, once more *sua sponte*, to fortify the Judge’s findings lacks any support in the record. In that regard, Salem refers the Board to the post-hearing brief that the Hospital submitted to the Judge, the contents of which are incorporated herein by reference.

For all the reasons set forth above, the Board should vacate the remedies identified above, as well as the Board-fashioned, supplemental support for the Judge's findings.

Dated: Glastonbury, CT
May 28, 2014

Respectfully submitted,

/s/ _____

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CERTIFICATE OF SERVICE

The Undersigned, Bryan T. Carmody, Esq., being an Attorney duly admitted to the practice of law, does hereby certify, pursuant to 28 U.S.C. § 1746, that the Respondent’s Motion for Reconsideration (hereafter, the “Motion”) was e-filed on Wednesday, May 28, 2014 with the Office of the Executive Secretary through the website of the National Labor Relations Board (www.nlr.gov).

The Undersigned does hereby further certify that, on May 28, 2014, a copy of the Motion was served upon Counsel for the General Counsel and Counsel for the Charging Party by e-mail, as follows:

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Health Professionals and Allied Employees
208 White Horse Pike
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Dated: Glastonbury, CT
May 28, 2014

Respectfully submitted,

/s/ _____

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