

Pursuant to Section 102.46 of the National Labor Relations Board's Rules and Regulations, Respondents Avanti Health Systems, LLC, CHHP Holdings II, LLC, and CHHP Management, LLC (collectively, "Respondents") submit the following exceptions to the recommended decision and order of Administrative Law Judge Gerald A. Wacknov ("ALJ"), issued on June 14, 2011:¹

EXCEPTIONS

Exception No. 1:

Respondents take exception to the ALJ's determination that Avanti is a proper party to this unfair labor practice proceeding because Avanti, CHHP Holdings, and CHHP Management constitute a single employer. (ALJ 4:15-17.)

Exception No. 2:

Respondents take exception to the ALJ's determination that Community Hospital employed a "substantial and representative" complement of registered nurses on March 26, 2010. (ALJ 5:44-6:7.)

Exception No. 3:

Respondents take exception to the ALJ's exclusion of the following six (6) licensed RNs working in different job classifications from the denominator of the *Burns* "headcount:" Jeremias Azuela, Barbara Edmonds, Arturo Ponce, Magdalena Vargas, Erika Ramirez, and Suzanne Zemer. (ALJ 7:9-9:23.)

¹ Throughout these exceptions and Respondents' supporting brief, citations to the record shall be as follows: the ALJ's decision will be designated as "ALJ [Page]:[Line];" the hearing transcript from the portion of the hearing will be designated as "Tr. [Page];" Respondents' exhibits will be designated as "Resp. Ex. [Number];" the Charging Party's Exhibits will be designated as "C.P. Ex. [Number];" and the General Counsel's exhibits will be designated as "G.C. Ex. [Number]."

Exception No. 4:

Respondents take exception to the ALJ's finding that that both Ki Kim and Lillian Pascua are not clinical supervisors and, therefore, should be included as Union incumbents. (ALJ 9:29-44.)

Exception No. 5:

Respondents take exception to the ALJ's conclusion that Community Hospital employed more than 50% Union incumbents on April 15, 2010. (ALJ 10:23:25.)

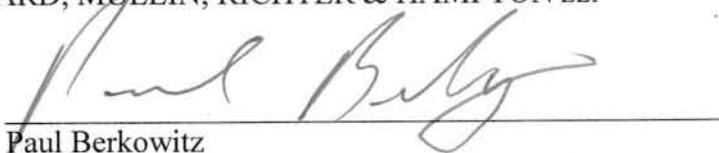
RELIEF REQUESTED

For all of the reasons set forth above and in their supporting brief filed herewith, Respondents respectfully request that the Board dismiss the Complaint in its entirety.

Dated: July 26, 2011

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By



Paul Berkowitz

Attorneys for Respondents

CHHP MANAGEMENT, LLC, CHHP HOLDINGS II, LLC, and AVANTI HEALTH SYSTEMS, LLC

PROOF OF SERVICE

UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

REGION 21

Case No. 21-CA-39264 & 21-CA-39268

I am employed in the County of Los Angeles; I am over the age of eighteen years and not a party to the within entitled action; my business address is 1901 Avenue of the Stars, Suite 1600, Los Angeles, California 90067-6017.

On **July 26, 2011**, I served the following document(s) described as **RESPONDENTS' EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER** on the interested party(ies) in this action by placing true copies thereof enclosed in sealed envelopes and/or packages addressed as follows:

Lisa McNeill, Counsel for the
Acting General Counsel
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Division of Judges
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Via Federal Express

BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY OVERNIGHT DELIVERY: I served such envelope or package to be delivered on the same day to an authorized courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier.

BY FACSIMILE: I served said document(s) to be transmitted by facsimile pursuant to Rule 2.306 of the California Rules of Court. The telephone number of the sending facsimile machine was 310-228-3701. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The sending facsimile machine (or the machine used to forward the facsimile) issued a transmission report confirming that the transmission was complete and without error. A copy of that report is attached to this declaration.

☒BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed above. The electronic notification address from which I served the documents(s) is mbaello@sheppardmullin.com.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **July 26, 2011**, at Los Angeles, California.



Millie Baello