



United States Government
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570
www.nlr.gov

HAND-DELIVERED

Date: May 6, 2016

To: The National Labor Relations Board

Re: 31-CA-066061, et al.

Attached please find a Notice of Ratification regarding the above-cited case and the Affidavit of Service establishing that all parties were served with the Notice and this letter. I request that the Notice of Ratification be placed in the case record.

Regards,

/s/ Richard F. Griffin, Jr.

General Counsel

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

**PRIME HEALTHCARE SERVICES-ENCINO,
LLC D/B/A ENCINO HOSPITAL MEDICAL
CENTER**

and

Case 31-CA-066061, et al.

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 121RN**

NOTICE OF RATIFICATION

The prosecution of this case commenced under the authority of Acting General Counsel Lafe E. Solomon during the period after his nomination on January 5, 2011, while his nomination was pending with the Senate, and before my confirmation on November 4, 2013.

The United States Court of Appeals for District of Columbia Circuit recently held that Acting General Counsel Solomon's authority under the Federal Vacancies Reform Act (FVRA), 5 U.S.C. §§ 3345 et seq., ceased on January 5, 2011, when the President nominated Mr. Solomon for the position of General Counsel. *SW General, Inc. v. NLRB*, __ F.3d __, 2015 WL 4666487, (D.C. Cir., Aug. 7, 2015). The Court found that complaints issued while Mr. Solomon's nomination was pending were unauthorized and that it was uncertain whether a lawfully-serving General Counsel or Acting General Counsel would have exercised discretion to prosecute the cases. *Id.* at *10.

I was confirmed as General Counsel on November 4, 2013. After appropriate review and consultation with my staff, I have decided that the issuance of the complaint in this case and its continued prosecution are a proper exercise of the General Counsel's broad and unreviewable discretion under Section 3(d) of the Act.

My action does not reflect an agreement with the appellate court ruling in *SW General*. Rather, my decision is a practical response aimed at facilitating the timely resolution of the charges that I have found to be meritorious while the issues raised by *SW General* are being resolved. Congress provided the option of ratification by expressly exempting "the General Counsel of the National Labor Relations Board" from the FVRA provisions that would otherwise preclude the ratification of certain actions of other persons found to have served in violation of the FVRA. *Id.* at *9 (citing 5 U.S.C. § 3348(e)(1)).

For the foregoing reasons, I hereby ratify the issuance and continued prosecution of the complaint.

Date: May 6, 2016

/s/ Richard F. Griffin, Jr.
Richard F. Griffin, Jr.
General Counsel

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 31**

**PRIME HEALTHCARE SERVICES-ENCINO,
LLC D/B/A ENCINO HOSPITAL MEDICAL
CENTER**

and

Case 31-CA-066061, et al.

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 121RN**

**AFFIDAVIT OF SERVICE OF: Notice of Ratification of Complaint and Prosecution of
Complaint and Letter to the Board regarding this Ratification.**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on May 6, 2016 I served the above-entitled document(s) by regular mail, as noted below, upon the following persons, addressed to them at the following addresses:

Mary Schottmiller
Prime Healthcare Services-Encino
16237 Ventura Blvd
Encino, CA 91436-2201

Judy Serlin
Service Employees International Union,
Local 121rn
1040 Lincoln Avenue
Pasadena, CA 91103

Jamie M. Konn, Attorney
DLA Piper, LLP (US)
1 Atlantic Ctr
1201 W Peachtree St., Ste. 2800
Atlanta, GA 30309-3449

David Adelstein, Esq.
Bush Gottlieb Singer Lopez Kohanski
Adelstein & Dickinson, a Law Corporation
500 N Brand Blvd Twentieth Floor
Glendale, CA 91203-9946

Joseph A. Turzi, Attorney At Law
DLA Piper LLP
500 8th St NW
Washington, DC 20004-2131

Jonathan Cohen, Attorney at Law
Rothner, Segall & Greenstone
501 South Marengo Avenue
Pasadena, CA 91101

Colleen Hanrahan, Attorney At Law
DLA Piper LLC (US)
500 8th Street, N.W.
Washington, DC 20004-2131

May 6, 2016

Date

Lily Nguyen
Designated Agent of NLRB

Name

/s/ Lily Nguyen

Signature

RECEIVED

2016 MAY -6 AM 9:07

NLRB
ORDER SECTION