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6
7 UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF CALIFORNIA
9

10 JOSEPH F. FRANKL, Regional Director of
Region 20 of the National Labor Relations
11 Board, for and on behalf of the NATIONAL
LABOR RELATIONS BOARD,

12 Petitioner,

13 v.

14 MANAS HOSPITALITY LLC d/b/a
HOLIDAY INN EXPRESS CALIFORNIA,

15
16 Respondent.

Civil No. 2:16-cv-2782-GHW

PETITIONER'S SUPPLEMENTAL
EXHIBIT

DATE: Jan. 12, 2017
TIME: 8:30 AM
JUDGE: Hon. George H. Wu
CRTRM: TBD (Visiting)

17
18 INDEX OF EXHIBITS

19 EXHIBIT 9(h) Affidavit of Roxana Tapia (October 18, 2016)

Bates No.
P00175

Manas Hospitality LLC d/b/a Holiday Inn
Express Sacramento
Cases 20-CA-176428, 20-CA-178861, et. al

Confidential Witness Affidavit

I, Roxana Tapia, being first duly sworn upon my oath, state as follows:

I have been given assurances by an agent of the National Labor Relations Board (NLRB) that this Confidential Witness Affidavit will be considered a confidential law enforcement record by the NLRB and will not be disclosed unless it becomes necessary to produce this Confidential Witness Affidavit in connection with a formal proceeding.

My cell phone number (including area code) is [REDACTED]

My e-mail address is [REDACTED]

I am employed by UNITE HERE! Local 49

located at 1796 Tribute Rd., Suite 200, Sacramento, CA 95815.

1 This is the ^{third} ~~second~~ affidavit I have provided to the Region. I provided the ^{Second} ~~first~~ affidavit
2 on September 21, 2016. I am an Organizer and Union Representative for UNITE HERE! Local
3 49, the Union. The Union is the exclusive-bargaining representative of a unit of about 25-27
4 employees employed by Manas Hospitality LLC dba Holiday Inn Sacramento (the Employer) a
5 hotel with its facility located at 728 16th Street, Sacramento, California. The unit is composed of
6 housekeeping, front desk employees and cafeteria/breakfast bar attendants. There are about 20
7 employees in the housekeeping department, about 6 front desk employees and about 1
8 cafeteria/breakfast employees. I have been the Union Representative assigned to this facility
9 since on or about October 2015. I report to Chris Rak, the president of the Union local.

10 The Employer took over operations of the hotel in August 2015. The most recent
11 collective bargaining agreement (CBA) covering the bargaining unit expired on December 31,

Privacy Act Statement

The NLRB is asking you for the information on this form on the authority of the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the NLRB in processing representation and/or unfair labor practice cases and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). Additional information about these uses is available at the NLRB website, Providing this information to the NLRB is voluntary. However, if you do not provide the information, the NLRB may refuse to continue processing an unfair labor practice or representation case, or may issue you a subpoena and seek enforcement of the subpoena in federal court.

Initials RT

1 2009. The Employer hired all employees previously employed by the previous employer,
2 recognized the Union as representative of the unit employees, and adopted the terms of the
3 expired CBA. Mohammed Nazeem is the General Manager of the hotel. The Director of Human
4 Resources is Sanjita Nand. The Housekeeping Manager is Elsa Gutierrez.

5 Olga Villa Gomez is unit employee that works in the laundry department. *Rayneel Singh*
6 unknown) is a unit employee that works at front desk. Raj (last name

7 Since I have been the Union representative for the facility, I try to meet with unit
8 employees in the breakfast serving area of the hotel, which is in the lobby space. The area is
9 beyond the front desk area, and there are tables and chairs there. The hotel employees eat their
10 lunch there, and sit there during their breaks. I have access to the facility, I walk in and sit at a
11 table for at least 30 minutes. The housekeeping unit employees usually take their lunch around
12 11 am, so that's when I try to go and sit there. I will sit at a table and wait for the employees to
13 come to the area. I don't have a formal meeting, I let them know I'm there to talk to them and
14 some of them do, others won't.

15 Since I became Union rep, we also had meetings off site with unit employees who
16 supported the Union. These meetings took place beginning around October or November 2015.
17 We usually met at the Union office or a Starbucks on 16th and J in Sacramento. It was myself and
18 Chris Rak who met with the employees. We would try to have them every other week, the topics
19 of the meetings varied. Some of them were to talk about what was going on inside the hotel, to
20 discuss Elsa's activities, her treatment of workers, what comments she was making to the
21 workers. We learned from these employees that Elsa was engaging in potential unfair labor
22 practices. These employees were supporters of the Union, they were mostly housekeeping
23 employees, they included Lucia Marez, Jahaira Soto, Maria Valdez Gonzalez, Griselda Espinoza

1 and Marlene Cardenas (she was cooperative for a certain period of time, but she stopped talking
2 to us). These workers were telling me that Elsa was forcing them to do things that were not part
3 of the CBA. For example, Marlene was an inspector (who got paid more and her job was to
4 make sure rooms were cleaned correctly) but Elsa told that she had to go back to being a
5 housekeeper because she was not going to do light duty anymore, she had a worker's comp
6 injury/case. I was meeting with these employees to discuss these matters. At these meetings, we
7 would also discuss contract negotiations and come up with proposals to present to the Employer.

8 We started meeting with these employees when we first learned about the first
9 decertification petition. Lucia Marez called Chris about a month after the Employer took over
10 operations and informed him that they were running a petition to get the Union out.

11 Silvia Arteaga Figueroa was a unit employee who worked in the housekeeping
12 department of the Employer for about three months in 2016, she began working around February
13 and left in May. The Employer has a 90 day probationary period, Silvia completed the
14 probationary period. While Silvia worked for the Employer she did not interact with me very
15 much. Elsa would stand by the food area when I was there, or walk by the area more often, and
16 it appeared she was looking to see which employees were talking with me.

17 Lucia Marez, one of the most active Union supporters, a member of the Union
18 committee, told me that Silvia had started talking with her. Around March 2016, we were
19 having a Union negotiation session and I went to pick up the Union committee members from
20 the hotel, it was Lucia, Maria and Griselda. I picked them up and we were going to the Union
21 office. Lucia informed me that Silvia had let her know that Elsa had said to her don't go with
22 Lucia, Maria and Griselda. Lucia told me that Elsa had said to Silvia that she would tell her
23 more later, but that they were trying to get the Union out. Silvia was still on probation, we did

1 not want to get her involved until she had finished her probation. At this point, the only
2 exchange I had had with Silvia was to say hello. I told Lucia to be careful about when she spoke
3 with Silvia because I did not want Silvia to get into trouble.

4 Shortly after that, I met with Silvia where she was living, along with Maria and Lucia.
5 Silvia confirmed to me the same account she told Lucia which I described above. At that point
6 Silvia was still in her probation period.

7 On May 11, 2016, we had negotiations with the Employer, we only had the Union
8 bargaining committee members Lucia, Maria Vidal Gonzalez, and Margaret (last name
9 unknown) present at the negotiations, the negotiations were held at the Union office. After the
10 session ended, Lucia, Maria, Margaret Chris and I walked out to the Union hall parking lot.
11 Silvia was waiting for Maria outside at that parking lot. Silvia approached us, she lives with
12 Maria, and she informed me that Elsa had given her a paper to sign, she informed it had been
13 about a couple of days before. I asked her, did you know what you signed? Silvia responded
14 that she did not know what she signed that it was in English, and she doesn't understand English,
15 and that Elsa had said to her that she would not make her sign something that would hurt her. I
16 told Silvia that she has the right to request a copy of everything that she has signed from the
17 Employer. I asked Maria to accompany Silvia to go to Elsa or Sanjita and ask for a copy of
18 whatever Silvia had signed.

19 About a couple of weeks later, Maria spoke to me, my recollection was that it was a
20 phone call. Maria informed me that she had accompanied Silvia to speak with Elsa and ask for a
21 copy of the document Silvia had signed and Elsa had become super upset with Maria and told
22 her, why are you telling Silvia to get copies of her papers. She told Maria, you don't need to get
23 involved. I told Maria I would request the document myself.

1 The only other conversation that I had with Silvia was a one on one conversation that I
2 had with her in May 2016 at the Starbucks where I encouraged her to cooperate with the NLRB.
3 A few days after this, I learned that she left the employment at the Employer's. She moved to a
4 different city.

5 Shortly after that, I sent Sanjita an email requesting a copy of whatever document Silvia
6 had signed. I will provide the Region my email as soon as I can. Sanjita emailed me and the
7 email had a document attached which was titled IHG Human Rights. The document appeared to
8 have Silvia Arteaga's name printed on it, with a date that appears to be 1/21/16 with a "2"
9 superimposed over the "1." A copy of the document is attached as **Exhibit 1**. I will provide the
10 Region with Sanjita's email to me, which had Exhibit 1 attached, as soon as I can.

11 Even though Silvia has not worked for the Employer since June, the Employer continued
12 to put her on the work schedule with the term "REQ" which means that the Employer is
13 requesting her to work. By keeping her on request status, they were trying to suggest that she
14 was working there. I have provided the Region with a copy of a schedule from July or June.

15 Vanessa Abel is also a unit employee in the housekeeping department. I met her in early
16 June 2016, after she had an accident on the job. A few days later, on June 5, she texted a copy of
17 a document that appeared to have signatures of employees on it. She texted that she had been
18 forced to sign the document, and I asked who is this, and then realized that it was Vanessa. She
19 then stated that she was forced to sign the document. I have provided the Region with screen
20 photos of my text exchange with Vanessa.

21 Suhad Salman is also a unit employee who worked in the housekeeping department.
22 Lucia called me one day in May and told me, as she was simultaneously on the phone with me,
23 that she was seeing Suhad's husband go up to the front desk with Suhad and ask Raj to see the

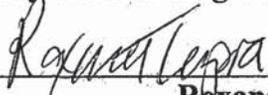
1 paper she had signed. Lucia stayed on the phone with me while she saw the whole exchange.
2 On May 11, 2016, I met Suhad and her husband, Shaheed, at the parking lot of the Holiday Inn.
3 Lucia introduced me to them, they gave me their phone numbers and address. Later on, about a
4 week later, I went to their home with Chris Rak, Shaheed and Suhad told us that Raj and Elsa
5 had come up to Suhad and asked her to sign a document. Suhad told us that Raj went into a
6 closet where he produced the document to sign. Shaheed told us that he had crossed out her
7 name from the document. Suhad told us that after Shaheed had done that, Mohammed had told
8 her why did she tell her husband about the petition, that she is in America and more free. We
9 just listened to her. Weeks later, I learned from Lucia that Suhad had quit her job and I spoke to
10 her on the phone.

11 As it pertains to the case the Union filed alleging bad faith bargaining, 20-CA-182449, I
12 have attended all bargaining sessions since I have been the Union representative at the
13 Employer's facility. I coordinate the logistics of getting the Union bargaining committee
14 members who attend the bargaining sessions and I also communicate to the committee members
15 and any other employees who wish to speak to me, about the developments during the bargaining
16 sessions. I do not write notes during the sessions, I am primarily translating for the Spanish
17 speaking members of the Union's bargaining committee during the sessions, who are Lucia and
18 Maria. Chris Rak is the primary note-taker for the Union at the bargaining sessions. I do have a
19 clear understanding of when the Employer has made statements that are critical during
20 negotiations, for example, when they held back proposals on economics. I have testified about
21 my recollection of specific bargaining sessions in my September 21, 2016 affidavit.

22
23

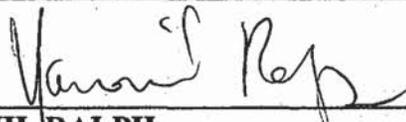
I am being provided a copy of this Confidential Witness Affidavit for my review. I understand that this affidavit is a confidential law enforcement record and should not be shown to any person other than my attorney or other person representing me in this proceeding.

I have read this Confidential Witness Affidavit consisting of 7 pages, including this page, I fully understand it, and I state under penalty of perjury that it is true and correct. However, if after reviewing this affidavit again, I remember anything else that is important or I wish to make any changes, I will immediately notify the Board agent.

Date: October 18, 2016 Signature: 
Roxana Tapia

Signed and sworn to before me on October 18, 2016 at

Vallejo, CA


YAROMIL RALPH
Board Agent
National Labor Relations Board



Human Rights

English

We support and protect human rights wherever we can. As a responsible company with operations in nearly 100 countries and territories, we believe that strong ethics and good business go hand in hand and we are committed to complying with the laws and regulations of the countries and jurisdictions in which we operate.

To demonstrate our commitment in this area we:

- support the protection of human rights, particularly those of our employees, the parties we do business with and the communities where we operate
- respect our employees' rights to voluntary freedom of association, under the law
- provide a safe and healthy working environment
- do not support forced and compulsory labour or the exploitation of children
- support the elimination of employment discrimination and promote diversity in the workplace
- provide our employees with remuneration and tools for growing their careers, and take their wellbeing into consideration
- promote fair competition and do not support corruption
- conduct our business with honesty and integrity in compliance with applicable laws
- develop and implement company procedures and processes to ensure we comply with this policy.

US English

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X Silvia Arteaga.

2/21/16

Exhibit 1