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April 12, 2017

William Mascioli
Assistant General Counsel
Contempt Litigation and Compliance Branch
1015 Half Street, S.E.
Washington, DC 20003

**Re: National Labor Relations Board v. Law-Den Nursing Home, Inc.
Case No. 14-2404**

Dear Mr. Mascioli:

Pursuant to the March 30, 2017 Order in the captioned matter, enclosed herewith please find the following:

1. **Response to Petition of the National Labor Relations Board for Adjudication in Civil Contempt;** and,
2. **Proof of Service of Mailing.**

Should you have any questions, please do not hesitate to contact me.

Very truly yours,



DAVID E. JEROME
DEJ: eas
Enclosures

cc: Law-Den Nursing Home, Inc. (via e-mail)
Linda Dreeben (via e-filing)
Helene Debra Lerner (via e-filing)
C. Todd Inniss (via e-filing)
William Russell Warwick, III (via e-filing)
Sarah Posner (via e-filing)
Bryant L. Crutcher, Case Manager (via e-filing)

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

Case No. 14-2404

LAW-DEN NURSING HOME, INC.,

Respondent.

**RESPONSE TO PETITION OF THE NATIONAL LABOR RELATIONS BOARD FOR
ADJUDICATION IN CIVIL CONTEMPT**

To the Honorable Judges of the United States Court of Appeals for the Sixth Circuit:

Law-Den Nursing Home, Inc. ("Law-Den"), respectfully, files this Response to the Petition of the National Labor Relations Board ("Board") and requests that the Board's Civil Contempt Petition be denied.

On August 30, 2016, Law-Den filed a Petition under Chapter 11 of the Bankruptcy Code. On October 18, 2016, David E. Jerome, was appointed as Special Labor Counsel for bankrupt Law-Den Nursing Home, Inc. Law-Den's plan for reorganization will be filed in the next several months.

At least since that date, Law-Den Nursing Home, Inc. has fully complied with the Order of March 17, 2015 and the National Labor Relations Board acknowledges that Law-Den is in full compliance by its pleading in this matter. Paragraphs IX, A, (4); IX, B, (12), XI, A, (3), XI, B, 9). Law-Den Nursing Home, Inc. is in full compliance with the Judgment of this Court entered March 17, 2015 and has been for many months.

To request this action now is not only wrong but counter-productive to the purposes of the National Labor Relations Board.

By this action, the Board requires the monies be expended in response, which monies could be better used to pay creditors in coming out of bankruptcy.

By this action, the Board jeopardizes Law-Den successfully presenting a plan to allow it to continue in business.

By this action, the Board jeopardizes the jobs of Law-Den's employees, whose employment is based on Law-Den's continued existence (or until a sale can be made).

By the relief requested, the Board requests fines and payments which money can better be used to pay creditors in coming out of bankruptcy.

By the relief requested, the Board puts a chilling effect on any potential sale of the business, for the benefit of the employees, the Union, and the creditors.

By the relief requested, the Board chills having proper legal counsel to Law-Den by seeking to make those attorneys and those acting with Law-Den personally liable.

By the relief requested, the Board seeks to superimpose its provisions, rejecting limiting actions allowed for under the Bankruptcy Code.

In support of its opposition to the National Labor Relations Board, Law-Den Nursing Home, Inc. states as follows:

- I. In response to paragraph I of the Petition, Law-Den admits that it operates a nursing home in Detroit, Michigan. Law-Den admits all other allegations contained in paragraph I.

II. In response to paragraph II of the Petition, Law-Den admits that the Union is the exclusive collective bargaining representative of its housekeeping, laundry, and dietary employees, and certified nursing assistants.

III. In response to paragraph III of the Petition, Law-Den admits that Todd Johnson has been the administrator and agent of Law-Den.

IV. In response to paragraph IV of the Petition, Law-Den admits that it was party to a collective bargaining agreement with the Union which expired on its terms on December 31, 2014. Law-Den had been a party to a collective bargaining agreement with the Union for many years. Law-Den and the Union negotiating team have recommended a new 3-year agreement to the membership.

V. In response to paragraph V of the Petition, Law-Den neither admits nor denies the allegations contained therein but affirmatively avers that since October 18, 2016 it has met multiple times with the Local Union and continues to attempt to arrive at a collective bargaining agreement. **At the April 7, 2017 negotiating session, the Union and Law-Den agreed on terms for a new 3-year agreement which is awaiting ratification by the employee-members.**

VI. In response to paragraph VI of the Petition, Law-Den neither admits nor denies the allegations contained therein but affirmatively avers that since October 18, 2016 it has met multiple times with the Local Union and continues to attempt to arrive at a collective bargaining agreement. **At the April 7, 2017 negotiating session, the Union and Law-Den agreed on terms for a new 3-year agreement which is awaiting ratification by the employee-members.**

VII. In response to paragraph VII of the Petition, Law-Den admits that this court entered the Judgment attached to the Petition as Exhibit A.

VIII. In response to paragraph VIII of the Petition, Law-Den admits that the 2015 Judgment has been in force and effect and that Law-Den has had notice of the same.

IX. In response to paragraph IX of the Petition, Law-Den neither admits nor denies the allegations contained therein. Law-Den affirmatively avers that since October 18, 2016, that it has fully complied with each and every request of the Union for information as well as information requested by the Union prior to that date. Law-Den denies that the information requested was relevant or necessary for the collective bargaining agreement. The Union admits that Law-Den has fully complied with requests for information, made before October 18, 2016. New requests for information have been presented after October 18, 2016 and have been fully complied with. The Petition acknowledges in paragraph A.4. that Law-Den has been providing the information “until on or around the beginning of November 2016”. This Petition, was filed February 1, 2017 and is stale, including subparagraphs A and B. **In addition, at the April 7, 2017 negotiating session, the Union and Law-Den agreed on terms for a new 3-year agreement which is awaiting ratification by the employee-members.**

X. In response to paragraph X of the Petition, Law-Den affirmatively avers that it is in full compliance and denies the allegations of paragraph X. Law-Den submits that providing benefits to its employees greater than required by the Collective Bargaining Agreement is not a violation of the National Labor Relations Board.

XI. In response to paragraph XI of the Petition, Law-Den neither admits nor denies the allegations contained therein. The Board’s Petition acknowledges full compliance by Paragraph XI, A, (3) and XI, B, (9). Law-Den affirmatively avers that since October 18, 2016, it has fully complied with the Order and has continued to negotiate with the Union providing responses to every e-mail and every request for information and for bargaining in good faith

attempting to come to a contract without the necessity of a Section 1113 under the Bankruptcy Code. At the April 7, 2017 negotiating session, the Union and Law-Den agreed on terms for a new 3-year agreement which is awaiting ratification by the employee-members.

XII. In response to paragraph XII of the Petition, Law-Den denies the allegations contained therein and affirmatively avers that it is in full compliance at this time with the 2015 Judgment. Actions in the past if they occurred, are stale, and this Petition for Contempt should be denied.

WHEREFORE, Law-Den Nursing Home, Inc. respectfully requests that the Board's Petition for Contempt be denied in its entirety and further avers that:

1. The Board acknowledges full compliance since at least October 18, 2016.
2. The Board's Petition at this time is stale and should be denied.
3. In light of the newly agreed to 3-year Collective Bargaining Agreement and almost six months continued compliance, the Board's Petition is counter-productive at best, and unnecessary at least.
4. The relief requested by the Board, is so severe that it would limit the ability of Law-Den to do business in that the alleged penalties as they relate to third parties, including attorneys, would quash experience attorneys desire to work with Law-Den, to advise it. The Board's request for relief is such that it would have a quieting effect on competent labor counsel. There is no question that Law-Den is in full compliance with the Order and has been now for almost six months.
5. The proposed Order would also limit if not destroy any chance of true success in this case which, coming out of bankruptcy, would allow the current business to be sold for the

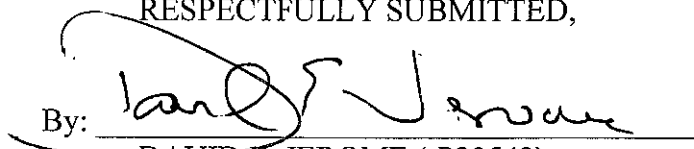
benefit of the current employer, the Union, the employee-members, and the prospective buyer.

No prospective buyer would purchase an entity with the proposed Order held over its head.

RESPECTFULLY SUBMITTED,

Date: April 11, 2017

By:

A handwritten signature in black ink, appearing to read "David E. Jerome", is written over a horizontal line. The signature is fluid and cursive.

DAVID E. JEROME (-P23543)

Special Labor Counsel

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UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

Case No. 14-2404

LAW-DEN NURSING HOME, INC.,

Respondent.

PROOF OF SERVICE OF MAILING

Elizabeth A. Schumacher, states as follows:


1. That she is employed by the Law Offices of Jerome & McLean, 436 N. Center St., P.O. Box 220, Northville, Michigan, 48167-0220, attorneys for Respondent, Law-Den Nursing Home, Inc.

2. That the Response to Petition of the National Labor Relations Board for Adjudication in Civil Contempt was served on the following party by placing same in an envelope properly addressed to:

William Mascioli
Assistant General Counsel
Contempt Litigation and Compliance Branch
1015 Half Street, S.E.
Washington, DC 20003

and deposited same in the United States mail with postage fully prepaid.

3. I declare that the statements above are true to the best of my information, knowledge and belief.



Elizabeth A. Schumacher