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**Sagar, Inc. d/b/a La Mariposa Care and Rehabilitation Center and Service Employees International Union, Local 2015.** Case 20–CA–203025

February 8, 2018

**DECISION AND ORDER**

BY CHAIRMAN KAPLAN AND MEMBERS PEARCE  
AND MCFERRAN

The General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge filed by Service Employees International Union, Local 2015 (the Union) on July 24, 2017, the General Counsel issued a complaint on October 23, 2017, against Sagar, Inc. d/b/a La Mariposa Care and Rehabilitation Center (the Respondent), alleging that the Respondent violated Section 8(a)(5) and (1) of the National Labor Relations Act. The Respondent failed to file an answer.

On November 20, 2017, the General Counsel filed with the Board a Motion for Default Judgment. Thereafter, on November 24, 2017, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted.<sup>1</sup> The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Default Judgment**

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was received by November 6, 2017, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated November 9, 2017, notified the Respondent that unless an answer was received by November 17, 2017, a motion for default judgment would be filed. Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations in the

<sup>1</sup> On December 5, 2017, the Respondent requested an extension of time to file a response to the Notice to Show Cause. On December 6, 2017, the Board granted the Respondent's request. However, even with this extension, the Respondent failed to file a response to the Notice to Show Cause.

complaint to be admitted as true, and we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent has been a California corporation with a facility located at 1244 Travis Boulevard, Fairfield, California, and has been engaged in the business of operating a skilled nursing facility providing inpatient care.

In conducting its operations during the 12-month period ending September 30, 2017, the Respondent derived gross revenues in excess of \$100,000, and purchased and received at its Fairfield, California facility goods valued in excess of \$5000 directly from points outside the State of California.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and is a healthcare institution within the meaning of Section 2(14) of the Act. We also find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Frank Diolosa	-	Administrator
Janee Flanders	-	Administrator

At all material times, Prema Thekkek has been Vice President of the Respondent and an agent of the Respondent within the meaning of Section 2(13) of the Act.

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All regular full-time, regular part-time and casual (on-call) employees in non-supervisory classifications and any other classifications which may be established within the scope of the duties now included within those classifications. Excluded from the bargaining unit on the basis of status are temporary employees, guards and supervisors as defined by the NLRA.

Excluded from the bargaining unit on the basis of classification are registered nurses, licensed vocational nurses, activities assistants, accounts receivable assis-

tants, admissions clerks, central supply clerks, data entry clerks, medical records clerks, receptionists, social service assistants, and ward clerks.

Since at least October 1, 2015, and at all material times, the Union has been the exclusive-collective bargaining representative of the unit, and since then, the Union has been recognized as the representative by the Respondent. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective by its terms from October 1, 2015 to October 1, 2018.

At all times since at least October 1, 2015, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

On or about June 7, 2017, the Union requested in writing that the Respondent furnish the Union with the following information for each actively-employed unit employee:

1. Facility name
2. Employee first name and last name
3. Employee address
4. Effective date of hire
5. Job title/classification
6. Department
7. Status of employment (full time, part time, on-call, etc.)
8. Hours per week (40, 35, 20, etc.)
9. Shift
10. Employee ID number
11. Rate of pay
12. Membership status (yes/no)

On or about June 29, 2017, the Union, in writing, reiterated its request that the Respondent furnish the Union with the unit information described above.

On or about July 13, 2017, the Union, in writing, reiterated its request that the Respondent furnish the Union with the unit information described above.

On or about August 3, 2017, the Respondent furnished the Union with the unit information described above.

The information requested by the Union, as described above, is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

From about June 7, 2017 to about August 3, 2017, the Respondent unreasonably delayed in furnishing the Union with the information requested by it as described above.

#### CONCLUSION OF LAW

By unreasonably delaying in furnishing the Union with requested information that is relevant and necessary to the Union's performance of its functions as the exclusive collective-bargaining representative of the Respondent's unit employees, the Respondent failed and refused to bargain collectively with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(5) and (1) of the Act. The unfair labor practices of the Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent violated Section 8(a)(5) and (1) of the Act by unreasonably delaying in furnishing the Union with requested information that is relevant and necessary for its role as the exclusive collective-bargaining representative of the unit employees, we shall order the Respondent to cease and desist and to take certain affirmative action designed to effectuate the purposes of the Act.<sup>2</sup>

#### ORDER

The National Labor Relations Board orders that the Respondent, Sagar, Inc. d/b/a La Mariposa Care and Rehabilitation Center, Fairfield, California, its officers, agents, successors, and assigns shall take the following affirmative action necessary to effectuate the policies of the Act.

1. Cease and desist from

(a) Refusing to bargain collectively with Service Employees International Union, Local 2015 (the Union) as the exclusive collective-bargaining representative of the

<sup>2</sup> In its joinder to the General Counsel's Motion for Default Judgment, the Union requests that the Board's notice include a reference to the Board's Mobile App, that the Respondent be required to mail the notice (along with the Board's Decision) to all former and current employees, and that the Respondent be required to post the notice for the period of time from when the violation began until the notice is posted. The Union further requests that the Board require the Respondent's authorized representative to print his or her name on the notice in addition to signing it, that the Board require that the notice be read to employees, and that employees be allowed to inquire as to the scope and effect of the remedy without the Respondent present but with the Union present and on employees' work time and while being paid. Finally, the Union requests the Board to require the Respondent to include the notice with any payroll statements, allow employees work time to read the Board's Decision and notice, and that the Board's Employee Rights Notice be posted permanently. We deny the Union's requests because the Union has not shown that these additional measures are needed to remedy the effects of the Respondent's unfair labor practices. See *Pro Works Contracting, Inc.*, 365 NLRB No. 150, slip op. at 3 fn. 3 (2017). Finally, the Union requests that the remedial notice state that the Respondent has been found to have violated the National Labor Relations Act. With respect to this request, we note that the attached notice, which conforms to the Board's standard remedial language, states that the Respondent "violated Federal labor law."

unit employees by unreasonably delaying in furnishing the Union with requested information that is relevant and necessary to the Union's performance of its functions as the exclusive collective-bargaining representative of the Respondent's unit employees in the following unit:

All regular full-time, regular part-time and casual (on-call) employees in non-supervisory classifications and any other classifications which may be established within the scope of the duties now included within those classifications. Excluded from the bargaining unit on the basis of status are temporary employees, guards and supervisors as defined by the NLRA.

Excluded from the bargaining unit on the basis of classification are registered nurses, licensed vocational nurses, activities assistants, accounts receivable assistants, admissions clerks, central supply clerks, data entry clerks, medical records clerks, receptionists, social service assistants, and ward clerks.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the purposes of the Act.

(a) Within 14 days after service by the Region, post at its Fairfield, California facility copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 20, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed its facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since June 7, 2017.

<sup>3</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(b) Within 21 days after service by the Region, file with the Regional Director for Region 20 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. February 8, 2018

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Marvin E. Kaplan, Chairman

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Mark Gaston Pearce, Member

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Lauren McFerran, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

POSTED AND MAILED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with Service Employees International Union, Local 2015 (the Union) as the exclusive collective-bargaining representative of the unit employees by delaying in furnishing the Union with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

SAGAR, INC. D/B/A LA MARIPOSA CARE AND  
REHABILITATION CENTER

The Board's decision can be found at <https://www.nlr.gov/case/20-CA-203025> or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

