

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

AQUA-ASTON HOSPITALITY, LLC D/B/A ASTON)
WAIKIKI BEACH HOTEL AND HOTEL RENEW)
)
Petitioner/Cross-Respondent) Nos. 17-1117, 17-1180
)
v.)
)
NATIONAL LABOR RELATIONS BOARD)
)
Respondent/Cross-Petitioner)
_____)
)
AQUA-ASTON HOSPITALITY, LLC D/B/A ASTON)
WAIKIKI BEACH HOTEL AND HOTEL RENEW)
)
Petitioner/Cross-Respondent) Nos. 17-1118, 17-1180
)
v.)
)
NATIONAL LABOR RELATIONS BOARD)
)
Respondent/Cross-Petitioner)
_____)

**UNOPPOSED MOTION FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD
UPON STIPULATION OF THE PARTIES FOR CONSENT JUDGMENT**

The National Labor Relations Board (the Board) respectfully moves this Court for entry of consent judgment in the above-captioned cases. The Board and Aqua-Aston Hospitality, LLC d/b/a Aston Waikiki Beach Hotel and Hotel Renew (the Company) have stipulated to the entry of a consent judgment. In support of its motion, the Board states:

1. On April 10 and April 11, 2017, the Board issued Decisions and Orders against the Company, reported at 365 NLRB No. 53 and 365 NLRB No. 44.

2. On April 19, 2017, the Company filed petitions with this Court to review each of the Board's Orders. On July 14, the Court consolidated the cases. The Board cross-applied for enforcement of its Orders on July 22.

3. As part of an agreed resolution of the case, the parties have agreed to entry of a consent judgment, which will obviate the need for any further proceedings in this matter.

4. Each party is to bear its own costs.

WHEREFORE, the Board respectfully requests that this motion be granted, and that the Court approve and enter the proposed consent judgment submitted with this motion, enforcing the Board's Orders in full, with each side to bear its own costs.

Respectfully submitted,

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street S.E.
Washington DC 20570
(202) 273-2960

Dated at Washington, D.C.
this 8th day of March 2018

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STIPULATION FOR ENTRY OF CONSENT JUDGMENT

To the Honorable, the Judges of the United States
Court of Appeals for the D.C. Circuit:

Subject to the approval of the Court, the parties to the above proceeding
stipulate and agree to the following:

1. On April 10 and April 11, 2017, the National Labor Relations Board
(the Board) issued Decisions and Orders against Aqua-Aston Hospitality, LLC,
d/b/a Aston Waikiki Beach Hotel and Hotel Renew (the Company). On April 19,

2017, the Petitioner, Aqua Aston Hospitality, LLC d/b/a Aston Waikiki Beach Hotel and Hotel Renew, filed petitions with this Court to review the same Board Orders. On July 14, 2017, the Court granted the Board's motion to consolidate the two cases. On July 19, 2017, the Board cross-applied for enforcement of its Orders.

2. The parties have executed a settlement agreement providing for entry of the attached consent judgment by this Court enforcing the Board's Orders. *See* attached Consent Judgment and Appendix.

3. The Company's counsel, Robert Katz, has authorized Board counsel to sign this stipulation on his behalf.

/s/ Linda Dreeben
National Labor Relations Board

/s/ Robert S. Katz
Aqua-Aston Hospitality, LLC d/b/a
Aston Waikiki Beach Hotel
and Hotel Renew

Linda Dreeben
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Honolulu, HI 96813
(808) 523-6000
rsk@torkilson.com

Dated this 8th day of March 2018

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CONSENT JUDGMENT

THIS CAUSE came to be heard upon two petitions filed by Aqua-Aston Hospitality, LLC d/b/a Aston Waikiki Beach Hotel and Hotel Renew, for review of Orders of the National Labor Relations Board in 1) Board Case Nos. 20-CA-145717, 20-CA-145720, 20-CA-145725, 20-CA-146582, 20-CA-146583, and 20-CA-148013, issued on April 11, 2017, reported at 365 NLRB No. 44, Docket No. 17-1117 and 2) Board Case Nos. 20-CA-154749, 20-CA-157769, 20-CA-160516, and 20-CA-160517, issued on April 10, 2017, reported at 365 NLRB No. 53, Docket No. 17-1118, and a cross-application by the Board for enforcement of its Orders. The cases having been consolidated, Aqua-Aston Hospitality, LLC d/b/a Aston Waikiki Beach Hotel and Hotel Renew and the Board having advised this Court of their desire to dispose of this matter by entry of a consent judgment enforcing the Board's Orders;

IT IS HEREBY ORDERED AND ADJUDGED by the Court that the said Orders of the National Labor Relations Board are hereby enforced and that the Petitioner, Aqua-Aston Hospitality, LLC d/b/a Aston Waikiki Beach Hotel and Hotel Renew, its officers, agents, successors, and assigns, shall abide by and perform the directions of the Board set forth in its Orders reported at 365 NLRB No. 44 and 365 NLRB No. 53. (See attached Orders and Appendices)

Judge, United States Court of Appeals
for the District of Columbia Circuit

Judge, United States Court of Appeals
for the District of Columbia Circuit

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for the District of Columbia Circuit

Board Case Nos. 20-CA-145717, 20-CA-145720, 20-CA-145725, 20-CA-146582, 20-CA-146583, and 20-CA-148013, reported at 365 NLRB No. 44

AQUA-ASTON HOSPITALITY, LLC F/K/A ASTON HOTELS
AND RESORTS, LLC D/B/A ASTON WAIKIKI BEACH HOTEL
AND HOTEL RENEW

v.

NATIONAL LABOR RELATIONS BOARD

ORDER

Aqua-Aston Hospitality, LLC f/k/a Aston Hotels and Resorts, LLC d/b/a Aston Waikiki Beach Hotel and Hotel Renew, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Interrogating employees about their union membership, activities, and sympathies or the union membership, activities, and sympathies of fellow employees.
 - (b) Placing employees under surveillance while they engage in union or other protected concerted activities.
 - (c) Directing employees to remove union buttons from their uniforms or other work clothing.
 - (d) Encouraging or soliciting employees to sign a petition withdrawing support from UNITE HERE! Local 5 or any other labor organization.
 - (e) Threatening employees with adverse employment consequences or unspecified reprisals for engaging in union or other protected concerted activities.
 - (f) Threatening or impliedly threatening off-duty employees with adverse employment consequences or unspecified reprisals for handbilling in nonwork areas.
 - (g) 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 policies of the Act.
 - (a) Within 14 days after service by the Region, post at its facility in

Honolulu, Hawaii copies of the attached notice marked “Appendix” in English, Ilocano and Tagalog. 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, the 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. If the Respondent has gone out of business or closed the facility 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 February 3, 2015.

- (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.

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board had 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 interrogate you about your union membership, activities, and sympathies or the union membership, activities, and sympathies of your fellow employees.

WE WILL NOT place you under surveillance while you engage in union or other protected concerted activities.

WE WILL NOT direct you to remove union buttons from your uniforms or other work clothing.

WE WILL NOT encourage or solicit you to sign any documents withdrawing support from UNITE HERE! Local 5 or any other labor organization.

WE WILL NOT threaten you with adverse employment consequences or unspecified reprisals if you engage in union or other protected concerted activities.

WE WILL NOT impliedly threaten to discipline or terminate off-duty employees for engaging in activities protected by Section 7 of the Act in nonwork areas of our premises.

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

AQUA-ASTON HOSPITALITY, LLC F/K/A ASTON HOTELS AND RESORTS,
LLC D/B/A ASTON WAIKIKI BEACH HOTEL AND HOTEL RENEW

The Board's decision can be found at www.nlr.gov/case/20-CA-145717 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.



Board Case Nos. 20-CA-154749, 20-CA-157769, 20-CA-160516, and 20-CA-160517, reported at 365 NLRB No. 53

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v.

NATIONAL LABOR RELATIONS BOARD

ORDER

Aqua-Aston Hospitality, LLC d/b/a Aston Waikiki Beach Hotel and Hotel Renew, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Disciplining employees because they engaged in union and/or protected activity;
 - (b) Ordering employees to cease engaging in union and/or protected activity;
 - (c) Threatening employees with discharge for engaging in union and/or protected activity;
 - (d) Soliciting employees to disclose their union sympathies; or
 - (e) Threatening employees with unspecified reprisals for handbilling in nonwork areas.
 - (f) 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 policies of the Act:
 - (a) Within 14 days from the date of this Order, remove from its files any reference to its unlawful discipline of Edgardo Guzman and Santos (“Sonny”) Ragunjan, and within 3 days thereafter notify each of them in writing that this has been done and that this discipline will not be used against him in any way.
 - (b) Within 14 days after service by the Region, post at its facility in Honolulu, Hawaii copies of the attached notice marked “Appendix” in English, Ilocano, and Tagalog. 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. If the Respondent has gone out of business or closed the facility 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 May 19, 2015.

- (c) 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 Respondent has taken to comply.

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The National Labor Relations Board had 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 discipline you for engaging in union and/or protected activity.

WE WILL NOT order you to cease engaging in union and/or protected activity.

WE WILL NOT threaten you with discharge for engaging in union and/or protected activity.

WE WILL NOT ask you to disclose your feelings about the union.

WE WILL NOT threaten you with unspecified reprisals for handbilling in nonwork areas of the Hotel properties.

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

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful written warnings issued to Edgardo Guzman and Santos "Sonny" Ragunjan, and WE WILL, within 3 days thereafter, notify each of them in writing that this has been done and that the written warnings will not be used against them in any way.

AQUA-ASTON HOSPITALITY, LLC D/B/A ASTON WAIKIKI BEACH HOTEL
AND HOTEL RENEW

The Board's decision can be found at www.nlr.gov/case/20-CA-154749 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.



