

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

**9TH AVENUE HOTEL PROPERTY HOLDING  
LLC D/B/A CASSA HOTEL TIMES SQUARE, VIP  
CONCIERGE INC. AND A&R BUILDING  
SOLUTION INC., AS JOINT EMPLOYERS**

**and**

**Cases 02-CA-201747  
02-CA-201748**

**NEW YORK HOTEL AND MOTEL TRADES  
COUNCIL, AFL-CIO**

**LOCAL 713 INTERNATIONAL BROTHERHOOD  
OF TRADE UNIONS (9TH AVENUE HOTEL  
PROPERTY HOLDING LLC D/B/A CASSA  
HOTEL TIMES SQUARE, VIP CONCIERGE INC.  
AND A&R BUILDING SOLUTION INC., AS  
JOINT EMPLOYERS)**

**and**

**Cases 02-CB-201749**

**NEW YORK HOTEL AND MOTEL TRADES  
COUNCIL, AFL-CIO**

**DECISION AND ORDER**

Statement of the Cases

On March 28, 2018, 9th Avenue Hotel Property Holding LLC d/b/a Cassa Hotel Times Square (Respondent Cassa Hotel), VIP Concierge Inc. (Respondent VIP Concierge), A&R Building Solution Inc. (Respondent A&R Building Solution), and Local 713 International Brotherhood of Trade Unions (Respondent Local 713) (collectively, the Respondents), Charging Party New York Hotel and Motel Trades Council, AFL-CIO (the Charging Party), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the parties waived their rights to contest the entry of a consent judgment or to receive further notice of the application therefor.

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

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

### **Findings of Fact**

#### **1. The Respondents' businesses**

At all material times, Respondent Cassa Hotel, a domestic corporation with an office located at 410 Park Avenue, New York, New York, has engaged in the hotel business. Annually, Respondent Cassa Hotel, in the course and conduct of its operations, derives gross revenue in excess of \$500,000, and purchases and receives goods and services valued in excess of \$5000, directly from suppliers located outside the State of New York. At all material times, Cassa Hotel has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

At all material times, Respondent VIP Concierge, a domestic corporation with an office and place of business located at 597 Flushing Avenue, New York, New York, has engaged in the business of providing hospitality service employees. Annually, Respondent VIP Concierge, in the course and conduct of its business operations, purchased and received goods or services valued in excess of \$50,000, from sellers or suppliers located within the State of New York. Said goods or services originated outside the State of New York. At all material times, VIP Concierge has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

At all material times, Respondent A&R Building Solution, a domestic corporation with an office and place of business at 183 Wilson Street, Suite 166, Brooklyn, New York, has been in the business of providing housekeeping and cleaning services. Annually, A&R Building Solution, in the course and conduct of its business operations, purchased and received goods or services valued in excess of \$50,000 from sellers or suppliers located within the State of New York. Said goods and services originated outside the State of New York. At all material times, A&R Building Solution has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

#### **2. The labor organizations involved**

At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

At all material times, the Respondent Local 713 has been a labor organization within the meaning of Section 2(5) of the Act.

## ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

A. The Respondents, 9th Avenue Hotel Property Holding LLC d/b/a Cassa Hotel Times Square, New York, New York; VIP Concierge Inc., New York, New York; A&R Building Solution Inc., Brooklyn, New York, their officers, agents, successors and assigns, shall

1. Cease and desist from

(a) Recognizing Local 713 International Brotherhood of Trade Unions (Local 713) as the exclusive collective-bargaining representative of the bargaining unit employees involved herein, i.e., Full-time and regular part-time Housekeepers, Handy Persons, House Persons, Breakfast Attendants, Full-time and regular part-time Doormen, Front Desk Personnel and Night auditors working at Cassa Hotel, 515 9th Avenue, New York, New York, unless and until that labor organization is duly certified by the Board as the exclusive representative of such employees.

(b) Maintaining or giving any force or effect to the collective-bargaining agreements with Respondent Local 713, including union-security and/or dues check off clauses, or to any extension, renewal, modification, or superseding agreements, unless and until Respondent Local 713 is duly certified by the Board as the exclusive bargaining representative of the unit employees, *provided that* nothing in the Order shall authorize or require the withdrawal or elimination of any wage increase or other benefits, terms, and conditions of employment which may have been established pursuant to the performance of that agreement and that the ordered cessation shall be without prejudice to the insurance coverage provided in those agreements.

(c) Threatening employees with discharge.

(d) Discharging or otherwise discriminating against employees because of their Section 7 activity.

(e) 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) Make whole employees for all losses they incurred as a result of VIP Concierge and A&R Building Solution's unfair labor practices, including (i) payment of the sums of \$15,860 (backpay), less statutory deductions, and \$315 (daily compound interest) to Arisnelda Rodriguez, to whom we have offered reinstatement to her former position of employment, and Rodriguez, having accepted our offer, returned to work on January 4,

2018; (ii) within 14 days of the date of the Board's Order, remove from our files any reference to the unlawful discharge of Arisnelda Rodriguez, and within 3 days thereafter notify the employee in writing that this has been done and that the discharge will not be used against her in any way; and, (iii) jointly and severally with Local 713, reimburse all present and former employees for all initiation fees, dues, and other moneys paid by them or withheld from them pursuant to the July 1, 2017 collective-bargaining agreements, with interest at the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010).

(b) Within 14 days of service by the Region, post at its facility located at 515 Ninth Avenue, New York, New York 10018 (Respondent Cassa Hotel's facility), copies of the attached Notice (Notice) marked "Appendix A." Copies of the Notice, on forms provided by Region 2, after being signed by the Respondents' authorized representatives, shall be posted for a period of sixty (60) days, in conspicuous places, including all places where notices to its employees are normally posted. The Respondents will take reasonable steps 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, any or all Respondents has or have gone out of business or closed the facility involved in these proceedings, the Respondents shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed at the Respondent's facility since June 12, 2017.

(c) Within twenty (20) days of the issuance of the Board's Order, file with the Regional Director of Region 2 of the Board, a sworn affidavit from a responsible official describing with specificity the manner in which the Respondents have complied with the terms of the Board's Order, including the locations of the posted documents.

B. Respondent Local 713, International Brotherhood of Trade Unions, Garden City, New York, its officers, agents, and representatives shall:

1. Cease and desist from:

(a) Accepting recognition from employers, or executing and giving effect to collective-bargaining agreements with Respondents Cassa Hotel, VIP Concierge, A&R Building Solution, or any other employer, containing a union-security clause requiring membership in Respondent Local 713 as a condition of employment, at a time when Local 713 does not represent an uncoerced majority of such employees in an appropriate unit.

(b) Seeking dues and fees from the wages of employees of Respondents Cassa Hotel, VIP Concierge, A&R Building Solution, or any other employer under a dues-checkoff clause included in a collective-bargaining agreement based on recognition accorded at a time when Local 713 does not represent an uncoerced majority of its employees in an appropriate unit.

(c) In any other 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) Jointly and severally with Respondents Cassa Hotel, VIP Concierge, and A&R Building Solution, reimburse all present and former employees for all initiation fees, dues, and other moneys paid by them or withheld from them pursuant to the July 1, 2017 collective-bargaining agreements, with interest at the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010).

(b) Within 14 days of service by the Region, post at its facility located at 400 Garden City Plaza #106, Garden City, New York 11530 (Respondent Local 713's facilities), copies of the attached Notice (Notice) marked "Appendix B." Copies of the Notice, on forms provided by Region 2, after being signed by Respondent Local 713's authorized representatives, shall be posted for a period of sixty (60) days, in conspicuous places, including all places where notices to its members are normally posted. Respondent Local 713 will take reasonable steps 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, Respondent Local 713 has gone out of business or closed the facility involved in these proceedings, Respondent Local 713 shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed at the Respondent's facility since June 12, 2017. Respondent Local 713 will provide additional signed copies of the notice to the Respondent Employers, which it can choose to post at its facility.

(c) Within twenty (20) days of the issuance of the Board's Order, file with the Regional Director of Region 2 of the Board, a sworn affidavit from a responsible official describing with specificity the manner in which Respondent Local 713 has complied with the terms of the Board's Order, including the locations of the posted documents.

Dated, Washington, D.C., April 4, 2018

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Mark Gaston Pearce, Member

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Lauren McFerran, Member

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William J. Emanuel, Member

(SEAL)

**NATIONAL LABOR RELATIONS BOARD**

## APPENDIX A

**NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER  
AND A CONSENT JUDGMENT OF ANY APPROPRIATE  
UNITED STATES COURT OF APPEALS**

**FEDERAL LAW GIVES YOU THE RIGHT TO:**

Form, join, or assist a union  
Choose a representative 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** do anything to prevent you from exercising the above rights.

**WE WILL NOT** threaten you with discharge or discharge you in retaliation for engaging in protected, concerted or union activity.

**WE WILL NOT** interfere with employees' right to engage in protected, concerted or union activity by making statements that your activities are being monitored.

**WE WILL NOT** assist or contribute support to Local 713, by recognizing or contracting with such labor organization as the bargaining representative of our employees unless and until it has been certified as such representative by the NLRB.

**WE WILL NOT** give effect to our July 1, 2017, contract with Local 713, IBOTU, or to any renewal, extension or modification thereof, but we are not authorized or required to withdraw or eliminate any wage rates or other benefits, terms and conditions of employment which we have given to our employees under said contract.

**WE WILL NOT** discriminate against employees by encouraging membership in Local 713, IBOTU or any other labor organization by discharging employees because they fail to sign dues deduction authorization cards, or because they fail to pay dues under a union-security clause included in a collective-bargaining agreement with Local 713 or any other labor organization entered into based on recognition accorded at a time when such labor organization did not represent an uncoerced majority of our employees in an appropriate unit.

**WE WILL NOT** deduct union dues and fees from the wages of employees for Local 713, IBOTU or any other labor organization under a dues-checkoff clause included in a collective-bargaining agreement with Local 713 or any other labor organization entered into based on recognition accorded at a time when such labor organization did not represent an uncoerced majority of our employees in an appropriate unit.

**WE WILL NOT** in any like or related manner interfere with your rights listed above.

**WE WILL** remove from our files any reference to the unlawful termination of Arisnelda Rodriguez and notify her, in writing, that this has been done and that this action will not be used against her in any way.

**WE WILL** make Arisnelda Rodriguez whole for any loss of earnings and other benefits suffered as a result of the Employer's unlawful action against her, plus interest.

**WE WILL** withdraw and withhold all recognition from Local 713, IBOTU, as the collective-bargaining representative of our employees, unless and until Local 713, IBOTU has been certified by the Board.

**WE WILL** reimburse all of our employees, former and present, for dues and other monies unlawfully exacted from them under our contract with Local 713, IBOTU, unless and until Local 713, IBOTU has been certified by the Board.

**9TH AVENUE HOTEL PROPERTY HOLDING  
LLC D/B/A CASSA HOTEL TIMES SQUARE, VIP  
CONCIERGE INC. AND A&R BUILDING  
SOLUTION INC., AS JOINT EMPLOYERS**

The Board's decision can be found at [www.nlr.gov/case/02-CA-201747](http://www.nlr.gov/case/02-CA-201747) 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 St., S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

## APPENDIX B

**NOTICE TO MEMBERS  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER  
AND A CONSENT JUDGMENT OF ANY APPROPRIATE  
UNITED STATES COURT OF APPEALS**

**FEDERAL LAW GIVES YOU THE RIGHT TO:**

Form, join, or assist a union  
Choose a representative to bargain with your employer 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** do anything to prevent you from exercising the above rights.

**WE WILL NOT** accept recognition from employers, or execute and give effect to collective-bargaining agreements with Cassa Hotel, VIP Concierge, A&R Building Solution, or any other employer, containing a union-security clause requiring membership in our labor organization as a condition of employment, at a time when our labor organization does not represent an uncoerced majority of such employees in an appropriate unit.

**WE WILL NOT** seek dues and fees from the wages of employees of Cassa Hotel, VIP Concierge, A&R Building Solution, or any other employer under a dues-checkoff clause included in a collective-bargaining agreement based on recognition accorded at a time when we did not represent an uncoerced majority of employees in an appropriate unit.

**WE WILL NOT** in any other manner interfere with your rights listed above.

**WE WILL** reimburse all of our members, former and present, for dues and other monies unlawfully exacted from them under our contracts with VIP Concierge and A&R Building Solution.

**INTERNATIONAL BROTHERHOOD  
OF TRADE UNIONS LOCAL 713**

The Board's decision can be found at [www.nlr.gov/case/02-CA-201747](http://www.nlr.gov/case/02-CA-201747) 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 St., S.E., Washington, D.C. 20570, or by calling (202) 273-1940.