



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 1
10 Causeway St Fl 6
Boston, MA 02222-1001

Agency Website: www.nlr.gov
Telephone: (617)565-6700
Fax: (617)565-6725

December 19, 2018

[REDACTED]
FOLEY HOAG LLP
155 SEAPORT BOULEVARD
BOSTON, MA 02210

Re: UNITE HERE LOCAL 26
(Boston Management LLC d/b/a Battery
Wharf Hotel)
Case 01-CB-219943

Dear [REDACTED]:

We have carefully investigated and considered your charge that UNITE HERE LOCAL 26 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that UNITE HERE Local 26 (Union) violated Section 8(b)(3) of the National Labor Relations Act by refusing to meet at reasonable times and by bargaining in bad faith. The investigation revealed that the Union insisted on including all bargaining unit members on its bargaining committee, and on meeting after hours so that its committee could attend without sacrificing wages. The Union offered to accommodate the Employer's desire to meet during regular business hours by proposing that the Employer pay the lost wages of up to eight committee members. Despite numerous communications regarding meeting dates and times, the parties met only four times between January and June 2018.

In these circumstances the Union's conduct did not constitute bad faith bargaining. Absent evidence of bad faith or interference with the collective-bargaining process, neither party may insist that the other party limit the size of its bargaining committee. The Union's bargaining committee size did not interfere with bargaining because there was no evidence that the large number of committee members present at the May 8 and June 19 meetings interfered with the parties' negotiations. Moreover, the primary reason for the paucity of meetings was the Union's insistence on meetings that do not cause its members to sacrifice wages. The Union has a right to attempt to schedule meetings when its selected representatives can participate. The Employer has not offered a reason why it cannot meet on evenings and weekends, other than its objection to the Union's committee size. Accordingly, I have determined that the allegations of this charge are without merit and I am dismissing the charge.

Accordingly, I am dismissing the charge in its entirety.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **January 2, 2019**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than January 1, 2019. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before January 2, 2019**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after January 2, 2019, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is

UNITE HERE LOCAL 26 (Boston
Management LLC d/b/a Battery Wharf
Hotel)
Case 01-CB-219943

- 3 - December 19, 2018

successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



PAUL J. MURPHY
Acting Regional Director

PJM:cds

Enclosure

cc:

[REDACTED]
UNITE HERE LOCAL 26
101 STATION LANDING 4TH FLOOR
MEDFORD, MA 02155

BOSTON MANAGEMENT LLC D/B/A
BATTERY WHARF HOTEL
3 BATTERY WHARF
BOSTON, MA 02109

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)