

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: April 07, 2020

Mr. Daniel Brasil Becker
National Labor Relations Board
Appellate and Supreme Court Litigation Branch
1015 Half Street, S.E.
4044A
Washington, DC 20570

Mr. Michael Dean Berkheimer
National Labor Relations Board
Appellate and Supreme Court Litigation Branch
1015 Half Street, S.E.
Washington, DC 20570

Ms. Linda Dreeben
National Labor Relations Board
Appellate and Supreme Court Litigation Branch
1015 Half Street, S.E.
Washington, DC 20570

Hanna Karcho
Resort America
3334 E. Coast Highway
Suite 517
Corona Del Mar, CA 92625

Mr. William Gerard Mascioli
National Labor Relations Board
Appellate and Supreme Court Litigation Branch
1015 Half Street, S.E.
Washington, DC 20570

Mr. David Hitoshi Mori
National Labor Relations Board

Appellate and Supreme Court Litigation Branch
1015 Half Street, S.E.
4011
Washington, DC 20570

Mr. Dalford Dean Owens Jr.
National Labor Relations Board
1099 14th Street, N.W.
10700
Washington, DC 20570

Remo Polselli
Resort America
3334 E. Coast Highway
Suite 517
Corona Del Mar, CA 92625

Re: Case No. 12-1787/12-2613/13-2089/13-2491/14-1282/14-1669, *NLRB v. Park Avenue
Investment Advisor*
Originating Case No. : 7-CA-60921

Dear Respondents & Counsel,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Bryant L. Crutcher
Case Manager
Direct Dial No. 513-564-7013

Enclosure

Nos. 12-1787, 12-2613; 13-2089; 13-2491; 14-1282; 14-1669

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT



NATIONAL LABOR RELATIONS BOARD,)
)
 Petitioner,)
)
 v.)
)
 PARK AVENUE INVESTMENT ADVISOR,)
 LLC; HOTEL MANAGEMENT ADVISORS-)
 TROY, LLC; 5500 MANAGEMENT, LLC;)
 QUANTUM HOTELS, LLC; METROPOLITAN)
 LODGING, LLC; and WICK ROAD HOTEL)
 MANAGEMENT, LLC; as a single employer and)
 alter egos,)
)
 Respondents,)
)
 REMO POLSELLI; HANNA KARCHO,)
)
 Individual Respondents.)

ORDER

Before: SILER, GILMAN, and WHITE, Circuit Judges.

On September 9, 2019, we issued an order requiring the respondents to show cause why they should not be adjudged in civil contempt for non-compliance with this court’s July 20, 2018 judgment. Counsel for the respondents moved to withdraw. An order was entered on November 25, 2019, giving respondents 30 days to retain new counsel and for that counsel to file an appearance in these proceedings, and giving respondents 45 days to file a response to the show cause order. Respondents have not retained new counsel or responded to the show cause order.

Nos. 12-1787, 12-2613; 13-2089; 13-2491; 14-1282; 14-1669

-2-

Accordingly, the Board moves for an order referring the case to an appropriate fact-finder to serve as a Special Master to oversee discovery, including discovery to determine respondents' ability to comply with the July 2018 judgment, entertain motions pursuant to the Federal Rules of Civil Procedure, and make recommended findings of fact and conclusions of law.

The Board's motion for an order of reference to a Special Master is hereby **GRANTED**. It is **ORDERED** that United States District Judge Stephanie Dawkins Davis be, and hereby is, appointed Special Master. The clerk shall forthwith furnish the Special Master with a certified copy of this order.

It is **FURTHER ORDERED** that the Special Master shall conduct fact-finding as appropriate, based upon the present and any future submissions of the parties.

It is **FURTHER ORDERED** that the Special Master shall have the following authority, powers, and duties:

1. To conduct such proceedings as may be appropriate to consider the simplification of the issues herein, the possibility of obtaining admissions of fact and of documents, and all other matters which may aid in the disposition of this reference, including the entertainment and disposition of any and all motions provided for by the Federal Rules of Civil Procedure and all other matters as authorized by the Federal Rules of Civil Procedure.

2. To hold such hearings as may be reasonably necessary to obtain relevant and admissible oral or documentary evidence.

3. To engage a qualified reporter to take and transcribe the testimony if such be deemed necessary. Charges for the services of such reporter shall be initially borne equally by the parties, subject to a final determination by this Court at the conclusion of the entire matter.

Nos. 12-1787, 12-2613; 13-2089; 13-2491; 14-1282; 14-1669

-3-

4. In accordance with the Federal Rules of Civil Procedure, to regulate all proceedings in the hearings before the Special Master and to do all things necessary or proper for the efficient performance of his/her duties under this order. The Special Master may require production before him/her of admissible evidence upon all matters relevant and material to the issues, including the production of books, papers, vouchers, documents, and writings. The Special Master may put witnesses under oath and may himself/herself examine them. The Special Master may rule upon the admissibility of evidence, subject to review by this Court upon his/her report. At the request of either party, he/she shall make a record of evidence offered as provided in the Federal Rules of Civil Procedure for a court sitting without a jury. Notwithstanding these powers, however, the parties shall, in order to expedite the proceedings and in the interests of justice, be permitted to obtain discovery, including discovery to ascertain Respondents' ability to comply with the July 20, 2018 judgment entered by this Court, without leave of court in accordance with the provisions of the Federal Rules of Civil Procedure, Rules 26 et seq.

5. To conduct the hearings with the purpose of keeping the inquiry within reasonable bounds confined to the controlling questions in the case, of producing a concise record, and of terminating the proceedings within a reasonable time.

6. After the conclusion of the hearing, the Special Master shall file with the Clerk of the Court the transcript of the proceedings, if any, the evidence, and the original exhibits, together with the Special Master's report thereon and recommendations as to findings of fact and conclusions of law. The Special Master's report shall be binding on the Court only in the manner and to the extent the Court deems appropriate. The Special Master may require the parties to submit, prior to the filing of this report, proposed findings, objections to proposed findings, and briefs.

Nos. 12-1787, 12-2613; 13-2089; 13-2491; 14-1282; 14-1669

-4-

7. The final assessment of all costs, fees, and expenses, including those incurred before the Special Master, is reserved for this Court.

It is **FURTHER ORDERED** that upon filing with the Clerk of the Court of the Special Master's report and recommendation, the transcript of the proceedings and the original exhibits, the Clerk shall forthwith mail formal notice of filing to all parties. Either side may file written objections to the report, but any such objection must be filed with the Court and served upon the other side within 30 days after issuance of notice of the report by the Clerk. If both sides intend to file objections, petitioner shall file and serve its brief within the following 30 days, respondent 30 days thereafter, and petitioner may thereafter reply only to the objections raised by the responding party within 10 days.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk