

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
NEW YORK DIVISION OF JUDGES**

HEALTHBRIDGE MANAGEMENT, LLC;
CARE REALTY, LLC; CAREONE, LLC;
107 OSBORNE STREET OPERATING
COMPANY II, LLC d/b/a DANBURY HCC;
710 LONG RIDGE ROAD OPERATING COMPANY II, LLC
d/b/a LONG RIDGE OF STAMFORD;
240 CHURCH STREET OPERATING COMPANY II, LLC
d/b/a NEWINGTON HEALTH CARE CENTER;
1 BURR ROAD OPERATING COMPANY II, LLC
d/b/a WESTPORT HEALTH CARE CENTER;
245 ORANGE AVENUE OPERATING COMPANY II, LLC
d/b/a WEST RIVER HEALTH CARE CENTER;
341 JORDAN LANE OPERATING COMPANY II, LLC d/b/a
WETHERSFIELD HEALTH CARE CENTER

and

Cases	34-CA-070823
	34-CA-072875
	34-CA-075226
	34-CA-083335
	34-CA-084717

NEW ENGLAND HEALTH CARE EMPLOYEES
UNION, DISTRICT 1199, SEIU, AFL-CIO

**ORDER DENYING THE RESPONDENTS' PETITION
TO REVOKE THE SUBPOENA**

On October 2, 2020, the counsel for the Respondents in the above matter filed a petition to revoke subpoena duces tecum B-706201 (PNC Bank Subpoena). The counsel for the General Counsel was provided an opportunity to respond to the petition and did so on October 9. The subpoena in question was initially served on PNC Bank on January 14, 2014. The same PNC Bank subpoena was then served on August 7, 2020 after resumption of the administrative hearing.¹

For the reasons set forth in the response by the counsel for the General Counsel, the petition to revoke is denied. Initially, I would note that the petition to revoke was untimely made inasmuch as the Board's rules and regulations require that a petition to revoke must be filed

¹ Due to the COVID-19 pandemic, all parties subsequently agreed to further postpone the hearing until March 2021.

within 5 days of receipt of a subpoena. The petition stated that Respondents' counsel learned of the renewed service of the PNC Bank subpoena on September 15.

The complaints allege that the Respondent is a single employer and/or single integrated enterprise. The PNC Bank subpoena seeks documents as to whether the Respondents constitute a single employer/single integrated enterprise and or as joint employers. In this regard, the subpoenas seek information relevant to the single employer/single integrated status and therefore relevant. In *Flat Dog Productions, Inc.*, 347 NLRB 1180, 1181–1182 (2006), the Board explained:

In determining whether two entities constitute a single employer, the Board considers four factors: common control over labor relations, common management, common ownership, and interrelation of operations. *Emsing's Supermarket, Inc.*, 284 NLRB 302 (1987), *enfd.* 872 F.2d 1279 (7th Cir. 1989).

“While the Board considers common control of labor relations a significant indication of single-employer status, no single aspect is controlling, and all four factors need not be present to find single-employer status. Instead, the ultimate determination turns on the totality of the evidence in a given case.” *Bolivar-Tees, Inc.*, 349 NLRB 720, 722 (2007), *enfd.* 551 F.3d 772 (8th Cir. 2008) (footnotes and internal citations omitted). Without going into the merits of the parties' arguments to the single employer or enterprise issue, it is enough that the subpoena seeks information reasonably relevant or lead to other evidence potentially relevant that may demonstrate common ownership and financial control. As such, documents that may establish financial arrangements and interrelationship, transfer of funds, management of cash and controlling financial interest in the various nursing homes are central in establishing joint liability. And, as the parties already are aware, such documents may tend to establish the critical factor of labor and financial relations in a single employer/ single enterprise situation. *New York Party Shuttle, LLC*, 370 NLRB No. 19 (September 19, 2020)

I further find no merit in the arguments for suspending the production of the subpoenaed documents or that it is pre-mature for the counsel for the General Counsel to seek such documents at this time. Although the hearing has been again delayed, there are no meritorious reasons to deny or stymie the General Counsel in seeking production at this time in preparation for “phrase 2” of our hearing regarding the single employer/joint integrated issue.

/s/ *Kenneth W. Chu*

Kenneth W. Chu
Administrative Law Judge

Date: October 15, 2020
New York, New York