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Hotel Equities Group LLC and UNITE HERE Local 23. Case 16–CA–363860

February 10, 2026

DECISION AND ORDER

BY MEMBERS PROUTY, MURPHY, AND MAYER

This is a refusal-to-bargain case in which Hotel Equities Group LLC (the Respondent) is contesting the Union’s certification as bargaining representative in the underlying representation proceeding. Pursuant to a charge filed on April 16, 2025, amended April 17, 2025, by Unite Here Local 23 (the Union), the Acting General Counsel issued a complaint on April 18, 2025, alleging that the Respondent has violated Section 8(a)(5) and (1) of the Act by failing and refusing to recognize and bargain in with the Union following the Union’s certification in Case 16–RC–343710. (Official notice is taken of the record in the representation proceeding as defined in the Board’s Rules and Regulations, Secs. 102.68 and 102.69(d). *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint and asserting affirmative defenses.

On May 1, 2025, the Acting General Counsel filed a Motion for Summary Judgment. On June 13, 2025, Chief

Administrative Law Judge Robert A. Giannasi issued an Order Transferring the Proceeding to the Board and a Notice to Show Cause why the motion should not be granted.¹ On June 27, 2025, the Respondent filed a response to the Notice to Show Cause, and on July 2, 2025, the Acting General Counsel filed a reply.

Ruling on Motion for Summary Judgment

The Respondent admits that it has refused to bargain but asserts that it has no duty to bargain and contests the validity of the Union’s certification of representative based on its objections to the election in the underlying representation proceeding.²

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor has it established any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.³

On the entire record, the Board makes the following

¹ The Motion was referred to Judge Giannasi per Sec. 102.179 of the Board’s Rules and Regulations because the Board lacked a quorum at the time it was filed. The Board has since regained its quorum.

² In its answer, the Respondent largely admits the complaint allegations, including the allegation that it is refusing to recognize and bargain with the Union. It denies that it violated the Act, and as affirmative defenses, asserts that the complaint fails to state a claim, the allegations are barred by Sec. 10(b), the Board’s administrative law judges are unconstitutionally insulated from removal by the President, and the proceeding is invalid because the Board lacks a quorum. The Respondent has not, however, offered any explanation or evidence to support those bare assertions. Thus, we find that they are insufficient to warrant denial of the Acting General Counsel’s Motion for Summary Judgment. See, e.g., *Sysco Central California, Inc.*, 371 NLRB No. 95, slip op. at 1 fn. 1 (2022); *Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino*, 366 NLRB No. 58, slip op. at 1 fn. 1 (2018) (citing cases), enfd. sub nom. *Operating Engineers Local 501 v. NLRB*, 949 F.3d 477 (9th Cir. 2020).

Moreover, the Respondent admits that it has refused to recognize and bargain with the Union. As such, “the complaint does indeed state claims upon which relief can be granted.” *Wolf Creek Nuclear Operating Corp.*, 366 NLRB No. 30, slip op. at 1 fn. 2 (2018), enfd. 762 F. App’x 461 (10th Cir. 2019). Further, there is no merit to the Respondent’s affirmative defense that Sec. 10(b) bars some or all of the allegations in the complaint. The charge was initially filed on April 16, 2025, and the complaint alleges that the Respondent’s refusal to bargain began on April 1, 2025, and is ongoing.

In addition, there is no merit to the Respondent’s claim that the Board’s administrative law judges are unconstitutionally insulated from removal. There is no evidence that the Respondent suffered any harm from the removal protections. See *SJT Holdings, Inc.*, 372 NLRB No. 82 slip op. 1 fn. 4 (2023) (citing *Collins v. Yellen*, 594 U.S. 220, 257–258 (2021), and *Calcutt v. FDIC*, 37 F.4th 293, 316 (6th Cir. 2022), rev’d per curiam on other grounds, 598 U.S. 623 (2023)); *K & R Contractors, LLC v. Keene*, 86 F.4th 135, 148–149 (4th Cir. 2023) (“[R]egardless of how we answer the constitutional question presented by the removal provisions, we would be required to deny the petition because K & R has not asserted any harm resulting from the allegedly unconstitutional statutes[.]”). Indeed, the underlying representation proceeding was before a Board Hearing Officer, not an administrative law judge. Finally, the Respondent’s assertion that the Board cannot act on the Acting General Counsel’s motion because the Board lacks a quorum is moot. The Board has a quorum now.

Lastly, the Respondent’s objections were fully litigated and resolved in the representation proceeding. Accordingly, the Respondent’s response to the Notice to Show Cause does not raise any litigable issue in this proceeding.

³ The Respondent’s request that the complaint be dismissed is therefore denied.

Members Murphy and Mayer did not participate in the prior representation proceeding. They agree, however, that the Respondent has not raised any new matters that are properly litigable in this unfair labor practice proceeding and that summary judgment is appropriate, with the parties retaining their respective rights to litigate relevant issues on appeal.

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent has been a Georgia corporation with an office and place of business located at 9532 Spirit of Austin Lane, Austin, Texas 78719 (Austin facility), and has been engaged in the business of operating and managing a hotel.

In conducting its operations during the previous 12-month period, the Respondent derived gross revenues in excess of \$500,000 and purchased and received goods valued in excess of \$5000 directly from points outside the State of Texas.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. *The Certification*

Following an election conducted by secret ballot on July 10, 2024, the Regional Director for Region 16 issued a Decision and Certification of Representative in Case 16–RC–343710 on October 11, 2024, certifying the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

INCLUDED: All full-time and regular part-time room attendants, housekeeping housepersons, lobby attendants, laundry attendants, front desk agents/hosts, night auditors, shuttle drivers, breakfast attendants, and cooks employed by the Employer at its facility located at 9532 Spirit of Austin Lane, Austin, Texas 78719.

EXCLUDED: All other employees including engineers, office clerical employees, managers, guards, and supervisors as defined in the Act.

On January 27, 2025, the Board denied the Respondent's request for review of the Regional Director's decision. The Union continues to be the exclusive collective-bargaining representative of the employees in the unit under Section 9(a) of the Act.

B. *Refusal to Bargain*

On March 17, 2025, the Union requested, by email, that the Respondent bargain with the Union as the exclusive collective-bargaining representative of the unit. Since about April 1, 2025, and continuing to date, the Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit.

We find that the Respondent's conduct constitutes an unlawful failure and refusal to recognize and bargain with

the Union in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By failing and refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of the employees in the unit since about April 1, 2025, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning on the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); accord *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964).

ORDER

The National Labor Relations Board orders that the Respondent, Hotel Equities Group LLC, Austin, Texas, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain with Unite Here Local 23 (the Union) as the exclusive collective-bargaining representative of the employees in the bargaining unit.

(b) 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) On request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

INCLUDED: All full-time and regular part-time room attendants, housekeeping housepersons, lobby attendants, laundry attendants, front desk agents/hosts, night auditors, shuttle drivers, breakfast attendants, and cooks employed by the Employer at its facility located at 9532 Spirit of Austin Lane, Austin, Texas 78719.

EXCLUDED: All other employees including engineers, office clerical employees, managers, guards, and supervisors as defined in the Act.

(b) Within 14 days after service by the Region, post at its facility in Austin, Texas, copies of the attached notice marked "Appendix."⁴ Copies of the notice, on forms provided by the Regional Director for Region 16, 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 April 1, 2025.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 16 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.

Dated, Washington, D.C. February 10, 2026

David M. Prouty, Member

James R. Murphy, Member

Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

⁴ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has 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 fail and refuse to recognize and bargain with UNITE HERE Local 23 (the Union) as the exclusive collective-bargaining representative of our employees in the bargaining unit.

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, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the following appropriate bargaining unit:

INCLUDED: All full-time and regular part-time room attendants, housekeeping housepersons, lobby attendants, laundry attendants, front desk agents/hosts, night auditors, shuttle drivers, breakfast attendants, and cooks employed by the Employer at its facility located at 9532 Spirit of Austin Lane, Austin, Texas 78719.

EXCLUDED: All other employees including engineers, office clerical employees, managers, guards, and supervisors as defined in the Act.

HOTEL EQUITIES GROUP LLC

The Board's decision can be found at www.nlr.gov/case/16-CA-363860 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.

United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

