



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 07
477 Michigan Ave Rm 300
Detroit, MI 48226-2543

Agency Website: www.nlr.gov
Telephone: (313)226-3200
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August 29, 2014

Shawntane Williams, Esq.
Staff Attorney
Michigan Council 25, American
Federation of State, County and Municipal
Employees (AFSCME), AFL-CIO
600 W Lafayette Blvd., Ste 500
Detroit, MI 48226-3190

Re: _____

Dear Ms. Williams:

We have carefully investigated and considered your charge that _____ as
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.

You allege that the Employer violated Section 8(a)(3) of the Act when it unlawfully
discharged employees Lawrence DeGentenaar, Brenda Gonzalez, Maria Leon and Victor
Browning. You further allege that the Employer violated Section 8(a)(5) of the Act when it
failed to notify and bargain with the Union, the exclusive bargaining representative of the above
employees, when it decided to discharge them.

Based on that investigation, I have decided to dismiss the Section 8(a)(3) allegations of
the charge because insufficient evidence was presented to establish that the discharges of
DeGentenaar, Gonzalez, and Leon and Browning were in retaliation for any union activities that
they may have engaged in.

With respect to the Section 8(a)(5) portion of the charge, the investigation established
that the Employer was not obligated to notify and bargain with the Union over the discharges of
DeGentenaar, Gonzalez or Leon. DeGentenaar was discharged in April 2014, two months before
the Union secured majority status by winning the June 2014, re-run election in Case 07-RC-
107521. Gonzalez and Leon were discharge based on violations of the Employer's well
established attendance policy which the Employer automatically and routinely enforced. The
Employer did not exercise discretion and, therefore, was not required to bargain with the Union
regarding those terminations. The investigation established that the Employer lawfully
suspended Browning for engaging in threatening behavior towards supervisors and co-workers.
It immediately sent a letter to the Union requesting that the parties meet and discuss any

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additional discipline of Browning. This letter provided the Union with a deadline to contact the Employer before additional discipline would take place. The Union failed to contact the Employer prior to the deadline, and the Employer converted the suspension to a discharge. The Employer met its obligation by providing the Union a reasonable opportunity to meet on the additional discipline.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at www.nlr.gov. However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. 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, 1099 14th Street, N.W., Washington D.C. 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date: The appeal is due on **September 12, 2014**. 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 **September 11, 2014**. **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 September 12, 2014**. 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 **September 12, 2014, 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 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

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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,

Terry Morgan
Regional Director

BLJ/mlmi

cc:

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