UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlrb.gov
Telephone: (303)844-3551
Fax: (303)844-6249

Download
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December 3, 2020

(b) (6), (b) (7)(C)
Grey Star
5445 DTC Parkway, Penthouse 1
Greenwood Village, CO 80111

Re: Grey Star
Case 27-CA-269650

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney RENEE C. BARKER whose telephone number is (720)598-7397. If this Board agent is not available, you may contact Assistant to the Regional Director KELLY SELVIDGE whose telephone number is (720)598-7389.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not

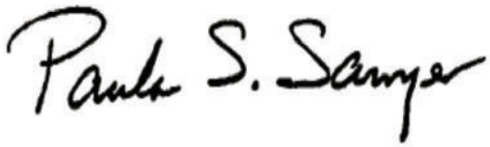
have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



PAULA S. SAWYER
Regional Director

Enclosures:
1. Copy of Charge
2. Commerce Questionnaire

Revised 3/21/2011 NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER
	27-CA-269650

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

[ ] CORPORATION [ ] LLC [ ] LLP [ ] PARTNERSHIP [ ] SOLE PROPRIETORSHIP [ ] OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS *(Products handled or manufactured, or nature of services performed).*

7. A. PRINCIPAL LOCATION:	B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:	B. At the address involved in this matter:

9. DURING THE MOST RECENT *(Check appropriate box):* [ ] **CALENDAR YR** [ ] **12 MONTHS** or [ ] **FISCAL YR** *(FY dates)*

	YES	NO
A. Did you **provide services** valued in excess of $50,000 directly to customers outside your State? If no, indicate actual value. $		
B. If you answered no to 9A, did you **provide services** valued in excess of $50,000 to customers in your State who purchased goods valued in excess of $50,000 from directly outside your State? If no, indicate the value of any such services you provided. $		
C. If you answered no to 9A and 9B, did you **provide services** valued in excess of $50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than $50,000, indicate amount. $		
D. Did you **sell goods** valued in excess of $50,000 directly to customers located outside your State? If less than $50,000, indicate amount. $		
E. If you answered no to 9D, did you **sell goods** valued in excess of $50,000 directly to customers located inside your State who purchased other goods valued in excess of $50,000 from directly outside your State? If less than $50,000, indicate amount. $		
F. Did you **purchase and receive goods** valued in excess of $50,000 from directly outside your State? If less than $50,000, indicate amount. $		
G. Did you **purchase and receive goods** valued in excess of $50,000 from enterprises who received the goods directly from points outside your State? If less than $50,000, indicate amount. $		
H. **Gross Revenues** from all sales or performance of services ***(Check the largest amount)*** [ ] $100,000 [ ] $250,000 [ ] $500,000 [ ] $1,000,000 or more If less than $100,000, indicate amount.		
I. **Did you begin operations within the last 12 months?** If yes, specify date:		

10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

[ ] YES [ ] NO *(If yes, name and address of association or group).*

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE *(Type or Print)*	SIGNATURE	E-MAIL ADDRESS	DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

FORM NLRB-4701
(9-03)

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

(b) (6), (b) (7)(C), Charging Party

and

Greystar, Respondent

CASE 27-CA-269650

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF

Respondent Greystar

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Adrienne Scheffey

MAILING ADDRESS: 1900 Sixteenth Street, Suite 1700, Denver, Colorado 80202

E-MAIL ADDRESS: adrienne.scheffey@akerman.com

OFFICE TELEPHONE NUMBER: (303) 260-7712

CELL PHONE NUMBER: (720) 936-1894 *FAX:* (303) 260-7714

SIGNATURE: Adrienne Scheffey
(Please sign in ink.)

DATE: January 12, 2021

[1] IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

From: Barker, Renee
To: adrienne.scheffey@akerman.com
Subject: Greystar. Case No. 27-CA-269650
Date: Friday, January 8, 2021 10:03:00 AM
Attachments: LTR.27-CA-269650.Dec 17 RFE (2).pdf

Good morning Adrienne,

I just left you a voice mail. I am the Board Agent investigating this charge. Please see the attached letter and feel free to call me after you've had a chance to review. Also please e-file the Notice of Appearance and Commerce Questionnaire at your earliest convenience.

Thank you,

Renée

National Labor Relations Board
Region 27--Denver
Direct: (720)598-7397
Main: (303)844-3551
Fax: (303)844-6249
Renee.Barker@nlrb.gov

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The NLRB has converted to an electronic file system
You MUST file all documents electronically through our online E-File system:

E-File Case Documents: https://apps.nlrb.gov/eservice/efileterm.aspx
E-File New Charge or Petition: https://apps.nlrb.gov/eservice/efileterm.aspx?app=chargeandpetition
E-File a FOIA request: https://www.nlrb.gov/news-publications/more-information/foia/how-file-foia-request

United States Government
NATIONAL LABOR RELATIONS BOARD
Region 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Telephone: 303-844-3551
Facsimile: 303-844-6249
www.nlrb.gov

December 17, 2020

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
5445 DTC Parkway, Penthouse 1
Greenwood Village, CO 80111

Re: Grey Star
Case No. 27-CA-269650

Dear (b) (6), (b) (7)(C)

I am the Board Agent assigned to investigate the above referenced case. If you have counsel in this matter, please forward this letter to your attorney and have her or him contact me immediately.

I plan to report this case to the Regional Director very soon and at that time I will make a recommendation based on the testimony and evidence contained in the case file. Please contact me by the close of business on **December 30, 2020** to make arrangements for your witnesses to give affidavits.

Note that I am only asking about evidence I have obtained to date and additional requests may follow. Note also that although some allegations are not specifically alleged in the charge, I will, in accordance with Board policy, investigate them and seek an amended charge, if necessary.

As written in the Regional Director's letter, the submission of a position letter or memorandum or the submission of affidavits not taken by a Board Agent does not constitute full and complete cooperation. Also, be advised again that this Agency cannot accept any limitations on the use of any evidence or position statements that are provided. If you decline to have your witnesses give affidavits, please submit a position statement by **December 30th.** At this time also confirm your refusal to provide affidavits. If you do not inform me otherwise, I will assume by your position statement that you refuse to provide affidavits. Please submit all position statements and any other documentary evidence on the Agency's website at www.nlrb.gov

(b) (6), (b) (7)(C) alleges that Grey Star (Employer) violated Section 8(a)(1) of the National Labor Relations Act (Act).

Specifically, about (b) (6), (b) (7)(C) and (b) (6), 2020, the Employer required (b) (6), (b) (7)(C) to use vacation time because (b) (6), was concerned about possible exposure to COVID-19 at (b) (6), place of employment. On about (b) (6), (b) (7)(C), 2020, the Employer terminated (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) alleges that the Employer took these actions because (b) (6), conveyed (b) (6), and (b) (6), co-workers concerns about health and safety in the workplace.

Please respond to the allegation of this charge. Submit any other evidence you wish the Region to consider in making a determination in this case.

Feel free to contact me if you have any questions.

Sincerely,

Renee C Barker

Board Agent

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

GREY STAR Charged Party and (b) (6), (b) (7)(C) Charging Party	**Case 27-CA-269650**

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on December 3, 2020**,** I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)
Grey Star
5445 DTC Parkway, Penthouse 1
Greenwood Village, CO 80111

December 3, 2020
Date

Ariel York
Designated Agent of NLRB
Name

/s/ Ariel York
Signature

From: adrienne.scheffey@akerman.com
To: Barker, Renee
Subject: RE: Greystar. Case No. 27-CA-269650
Date: Friday, January 8, 2021 10:34:05 AM

Renee,

Thank you so much for getting back to me. I am in a deposition this morning but will return your call as soon as I am able to this afternoon.

Best,

Adrienne Scheffey
Akerman LLP | 1900 Sixteenth Street, Suite 1700 | Denver, CO 80202
D: 303 640 2512 | T: 303 260 7712
adrienne.scheffey@akerman.com

Profile

CONFIDENTIALITY NOTE: The information contained in this transmission may be privileged and confidential, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly proh bited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error and then delete it. Thank you.

From: Barker, Renee <Renee.Barker@nlrb.gov>
Sent: Friday, January 8, 2021 9:04 AM
To: Scheffey, Adrienne (Assoc-Den) <adrienne.scheffey@akerman.com>
Subject: Greystar. Case No. 27-CA-269650

Good morning Adrienne,

I just left you a voice mail. I am the Board Agent investigating this charge. Please see the attached letter and feel free to call me after you've had a chance to review. Also please e-file the Notice of Appearance and Commerce Questionnaire at your earliest convenience.

Thank you,

Renée

National Labor Relations Board
Region 27--Denver
Direct: (720)598-7397
Main: (303)844-3551
Fax: (303)844-6249
Renee.Barker@nlrb.gov

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The NLRB has converted to an electronic file system
You MUST file all documents electronically through our online E-File system:

E-File Case Documents: https://apps.nlrb.gov/eservice/efileterm.aspx
E-File New Charge or Petition: https://apps.nlrb.gov/eservice/efileterm.aspx?app=chargeandpetition
E-File a FOIA request: https://www.nlrb.gov/news-publications/more-information/foia/how-file-foia-request

akerman

Adrienne Scheffey

Akerman LLP
1900 16th Street
Suite 1700
Denver, CO 80202

D: 303 640 2512
T: 303 260 7712
F: 303 260 7714
Adrienne.Scheffey@akerman.com

January 20, 2021

VIA NLRB E-FILING SYSTEM

Renée Barker
NATIONAL LABOR RELATIONS BOARD
Region 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, Colorado 80294

Re: (b) (6), (b) (7)(C) Charge; *Case No. 27-CA-269650*

Ms. Barker:

This letter shall serve as the Position Statement of Greystar ("Greystar" or "Charged Party") in the matter of an unfair labor practice charge filed by (b) (6), (b) (7)(C) ((b) (6), (b) (7)(C), or "Charging Party") in Case 27-CA-269650 (the "Charge"). As explained herein, there is no support that (b) (6), (b) (7)(C) ever engaged in Section 7 protected activity, nor was (b) (6), fired for the same. To the contrary, the termination of (b) (6), (b) (7)(C) employment was the result of ongoing performance issues, conflicts with (b) (6), co-workers, and racist and sexist remarks.

I. Relevant Factual Background

A. About Greystar

Greystar, headquartered in Charleston, South Carolina, provides full-service multi-family property management services to residential apartment owners and employs more than 50 employees. Greystar, including its predecessor companies, has managed all types of multi-family assets (conventional, student living, senior living, high-rise, etc.) for over 30 years.

It is the express policy of Greystar to comply with all federal, state, and local laws regarding equal employment opportunities. Greystar will recruit, hire, train and promote the most qualified candidate for every job position and apply this policy to all other terms and conditions of employment. No person will be discriminated against in employment because of race, religion, color, sex, age, national origin, disability, marital status, veteran status, sexual orientation, citizenship status, genetic information, pregnancy or any other protected category recognized by applicable federal, state or local laws. Greystar simply does not tolerate harassment or discrimination in the workplace and will take appropriate disciplinary action, up to and including

termination of employment, against employees who violate the Company's non-discrimination policies. *See* Exhibit A, Greystar's Equal Employment Opportunity and Team Members with Disabilities policies. In addition to maintaining a workplace free of discrimination, Greystar is committed to maintaining a collegial workplace.

B. (b) (6), (b) (7)(C) Employment With Greystar

(b) (6), (b) (7)(C) worked at Greystar's Infinity LoHi ("LoHi") property from (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) 2020. During (b) (6), (b) (7)(C) tenure at that facility, (b) (6), (b) (7)(C) employment was fraught with performance, discipline, and interpersonal issues. Ultimately, after it was clear that (b) (6), (b) (7)(C) was not a good fit for a customer-service oriented role, Greystar terminated (b) (6), (b) (7)(C) employment.

(b) (6), (b) (7)(C) after arriving at the facility, (b) (6), (b) (7)(C) received (b) (6), first review. This review made (b) (6), performance goals clear from the outset. (b) (6), (b) (7)(C) review indicated that (b) (6) needed to improve (b) (6), attitude; specifically, (b) (6) was told to work on being less critical and more positive. Exhibit B ((b) (6), (b) (7)(C) Review). (b) (6), was also instructed to demonstrate accountability by taking responsibility and ownership for (b) (6), words, actions, tasks, and results. *Id.* pgs. 8-9.

On (b) (6), (b) (7)(C), 2020, one of Greystar's residents submitted a complaint about (b) (6), (b) (7)(C) that explained when residents approached (b) (6), (b) (7)(C) with general questions, they were met with "attitude and annoyance." Exhibit C (Counseling Warning (b) (6) 2020). Because one of the key objectives of (b) (6), (b) (7)(C) position was to address resident concerns in a professional and polite manner, (b) (6), (b) (7)(C) promptly raised the concern with (b) (6), (b) (7)(C) and counseled (b) (6), (b) on Greystar's expectations for customer service. *Id.* at 6. Unfortunately, the counseling did not improve (b) (6), (b) (7)(C) performance.

On (b) (6), (b) (7)(C) 2020, another resident complained that (b) (6), (b) (7)(C) behavior was "excessively rude," and that (b) (6), (b) (7)(C) was very dismissive, which made residents "feel stupid when they are talking to (b) (6), (b) (7)" Exhibit C. That same day, (b) (6), (b) (7)(C) was dismissive of (b) (6), (b) (7)(C) directions regarding communications with residents. *Id.* (b) (6), also made numerous comments about how the community's residents do not "pay for (b) (6), respect." In response, (b) (6), (b) (7)(C) received a formal written warning on (b) (6), (b) (7)(C) 2020. *Id.*

(b) (6), (b) (7)(C) provided a written response to the write-up. (b) (6), did not deny that any of the events that were documented by (b) (6), (b) (7)(C) had occurred; instead, (b) (6) provided a detailed account confirming the exact events with additional commentary about the surrounding circumstances. Exhibit C. In (b) (6), response (b) (6) admitted that (b) (6) expressed "annoyance and frustration" towards the residents. *Id.* But (b) (6) blamed (b) (6), poor attitude on the residents in both instances—rather than taking personal responsibility for (b) (6), actions. *Id.* (b) (6), also admitted that (b) (6) was aware that (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) had previously counseled (b) (6), (b) on these issues and (b) (6), combative attitude. *Id.* As a result, (b) (6), (b) (7)(C) was instructed to improve (b) (6), negative attitude, treat residents with respect, and follow company protocol for customer service issues. *Id.*

In late (b) (6), (b) (7)(C) 2020, (b) (6), (b) (7)(C) reached out to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and informed (b) (6), that (b) (6) could no longer work alone with (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) explained that (b) (6), (b) (7)(C) had been "demeaning and rude all day." Exhibit D. In addition, (b) (6) submitted a statement documenting racist and inappropriate remarks. On that occasion, (b) (6), (b) (7)(C) had made racist comments about (b) (6), (b) (7)(C) resident, attributing (b) (6), behavior to (b) (6), perception of

(b) (6), (b) (7)(C). Exhibit E. (b) (6), (b) also told (b) (6), (b) (7)(C) in response to a complaint about parking, that "ownership can (b) (6), (b) (7)(C)" which made (b) (6), (b) (7)(C) uncomfortable. After these two events, (b) (6), (b) (7)(C) tried to bait (b) (6), (b) (7)(C) into saying negative things about another employee. *Id.* (b) (6), (b) (7)(C) also reported that (b) (6), (b) (7)(C) later berated (b) (6), (b) (7) *Id.*

These events lead to a final written warning. On (b) (6), (b) (7)(C), 2020, (b) (6), (b) (7)(C) responded to the report made by (b) (6), (b) (7)(C). Exhibit F (Final Counseling Warning (b) (6), (b) /2020). (b) (6), (b) conceded (b) (6), (b) made the racist remarks to (b) (6), (b) (7)(C), but attempted to justify the same by stating that (b) (6), (b) preceded (b) (6), (b) statements with a question about what constitutes racism. *Id.* This justification did not minimize (b) (6), (b) wrongdoing—if anything, it made it worse as (b) (6), (b) failed to take personal responsibility for (b) (6), (b) actions. *Id.* (b) (6), (b) (7)(C) also acknowledged (b) (6), (b) had made the inappropriate comments about ownership and had pressed the other dispute with (b) (6), (b) (7)(C) too long, but again did not take full responsibility for (b) (6), (b) actions. As part of (b) (6), (b) final written warning, (b) (6), (b) (7)(C) was informed that: "[i]mmediate and sustained improvement is required. Further infractions of this nature may result in disciplinary action up to and including termination." *Id.*[1]

Following (b) (6), (b) final warning on (b) (6), (b) (7)(C), 2020, (b) (6), (b) (7)(C) made yet another misstep. On (b) (6), (b) (7)(C) 2020, a day which (b) (6), (b) was supposed to be on vacation (out of the office and not working), (b) (6), (b) (7)(C) set a meeting with (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). During the meeting (b) (6), (b) instructed (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to complete tasks in a manner that was inconsistent with explicit directives previously given by (b) (6), (b) (7)(C) Notably, (b) (6), (b) did this on a day (b) (6), (b) knew (b) (6), (b) (7)(C) was out for the day. (b) (6), (b) was again counseled. Yet, not ten days later, (b) (6), (b) continued to have issues with (b) (6), (b) (7)(C), including calling (b) (6), (b) profanities to (b) (6), (b) colleagues who later reported the behavior because it made them uncomfortable. *See* Exhibit G, Declaration of (b) (6), (b) (7)(C) at ¶7.

As a result of the significant and ongoing unprofessional behavior and performance issues, Greystar terminated (b) (6), (b) (7)(C) employment on (b) (6), (b) (7)(C) 2020. (b) (6), (b) (7)(C) was terminated for unprofessional behavior, unsatisfactory job performance, and violations of company policy.

II. Analysis

As described above, (b) (6), (b) (7)(C) was terminated for ongoing performance issues—not for engaging in concerted activity.[2] There can be no question that here, (b) (6), (b) (7)(C) employment was terminated for cause. Indeed, (b) (6), (b) conceded that on multiple occasions (b) (6), (b) spoke rudely to residents and made racist remarks. Exhibits C & F. Other employees who worked with (b) (6), (b) (7)(C) confirmed

[1] Around the same time that (b) (6), (b) (7)(C) received (b) (6), (b) final warning, the company learned that one of the LoHi employees had been in contact with an individual who had tested positive for COVID-19. Greystar followed CDC and Colorado guidelines. The employee quarantined never experienced symptoms and received a negative COVID-19 test before returning to work. On or around (b) (6), (b) (7)(C), 2020 (well after receiving (b) (6), (b) final warning), (b) (6), (b) (7)(C) expressed concern about working with the employee after (b) (6), (b) negative test expressing concern about possible false negative tests. To accommodate (b) (6), (b) (7)(C) Greystar told (b) (6), (b) (7)(C) could take paid time off for the rest of the day, as well as the following day which was a Friday (Saturday and Sunday were already days off for (b) (6), (b) (7)(C)). (b) (6), (b) (7)(C) also explained to (b) (6), (b) (6), (b) that all COVID-19 protocols had been followed. No other employees expressed concern about how Greystar handled the issue either to (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C). Exhibit G, Declaration of (b) (6), (b) (7)(C) at ¶8. (b) (6), (b) (7)(C) complaints were (b) (6), (b) own. *Id.* at ¶12.

[2] In addition, there is a significant question about whether (b) (6), (b) (7)(C) conversations would ever be considered concerted activity as (b) (6), (b) was (b) (6), (b) (7)(C) and those with whom (b) (6), (b) worked were not (b) (6), (b) (7)(C) Nevertheless, assuming *arguendo* that (b) (6), (b) (7)(C) status as (b) (6), (b) (7)(C) is not a bar to (b) (6), (b) claims—they still fail.

that (b) (6), (b) (7)(C) routinely acted with a lack of professionalism towards Greystar's residents. Exhibit G, Declaration of (b) (6), (b) (7)(C) at ¶7. Accordingly, (b) (6), (b) (7)(C) charge should be dismissed.

Furthermore, even if it could be found that (b) (6), (b) (7)(C) was seeking a change in the workplace through (b) (6), (b) (7)(C) outbursts to (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) was raising purely personal grievances, not collective concerns. Thus, (b) (6), (b) (7)(C) speech was not protected by the NLRA. Recently, in *Alstate Maint., LLC*, 367 NLRB No. 68 (Jan. 11, 2019), the Board reviewed a situation where the employer provided skycap services for an airport. *Id.* The claimant, while working with three other skycaps, declined to help with a soccer team's equipment, claiming that the year prior that team had not given him a tip. *Id.* While he framed the complaint as one in the collective, none of the other employees had spoken with him about the issue—nor did they share his concern. *Id.* Thus, the Board found that the claimant raised a purely personal grievance because there was "no evidence that the tipping habits of soccer players (or anyone else) had been a topic of conversation among the skycaps prior to [claimant's] statement." *Id.*

The same analysis applies here where, even assuming (b) (6), (b) (7)(C) raised a concern about the workplace, (b) (6), (b) (7)(C) did so on (b) (6), (b) (7)(C) own behalf. None of the other employees discussed their concerns with (b) (6), (b) (7)(C) or otherwise engaged in anything that could be considered concerted activity. Exhibit G, Declaration of (b) (6), (b) (7)(C) at ¶12. (b) (6), (b) (7)(C) concern was nothing more than a personal grievance.

Furthermore, in *Alstate*, the Board noted that termination for the failure to appropriately respond to customers is not a violation of the NLRA, noting:

> Failure to respond to a customer's request can mean loss of business, and of jobs. Greenidge's selfish stunt caused the customer to complain, and failure to remedy the source of that complaint could have resulted in the Respondent losing its contract with Terminal One Management, jeopardizing all the skycaps' jobs. We recognize, of course, that under the Act, employees have a protected right to strike, and the fact that a strike could also result in a loss of contract and jobs does not deprive strikers of the Act's protection. But what happened here was mere insubordination, not a protected strike.
>
> *Alstate Maint., LLC*, 367 NLRB No. 68 at n.5 (Jan. 11, 2019).

Likewise, here, (b) (6), (b) (7)(C) consistent complaints from residents and general malaise expressed towards Greystar's client threatened to become problematic for its business relationships and to undermine its reputation for high quality customer service. Accordingly, *Alstate* is directly applicable here and makes clear that (b) (6), (b) (7)(C) personal grievance did not constitute concerted activity. *See* Exhibit G, Declaration of (b) (6), (b) (7)(C) at ¶11 (stating (b) (6), (b) (7)(C) did not discuss working conditions with (b) (6), (b) (7)(C).

Moreover, to the extent that (b) (6), (b) (7)(C) argues that (b) (6), (b) (7)(C) outbursts related to Greystar's client or residents were concerted activity — (b) (6), (b) (7)(C) statements lost any protection because they were profanity laden and inappropriately expressed in front of residents. *See* Exhibit G, Declaration of (b) (6), (b) (7)(C) at ¶7. *Atlantic Steele*' balancing test makes clear that this fact, in addition to the other circumstances described above, counsels against any finding that those statements were protected

speech in any way. *Atlantic Steel Co.*, 246 NLRB 814, 816 (1979) (statements that involve "opprobrious conduct" lose the protection of Section 7). Likewise, (b) (6), (b) (7)(C) ongoing misconduct presented legitimate concern that, if the behavior continued, Greystar would lose business. It is well accepted that an employer need not tolerate a generally poor attitude under the presumption that somewhere the employee may seek a change in the workplace. *Gen. Motors LLC*, 369 NLRB No. 127 (July 21, 2020) ("We do not read the Act to empower the Board to referee what abusive conduct is severe enough for an employer to lawfully discipline.").[3]

In short, (b) (6), (b) (7)(C) employment was lawfully terminated for performance-related issues and (b) (6) did not engage in concerted activity at any time. Thus, (b) (6), charge should be dismissed.

Should you have any questions or wish to discuss this matter in additional detail, please feel free to give me a call at (303) 640-2512.

Sincerely,

/s/ Adrienne Scheffey
Adrienne Scheffey

Encl.: Exhibits A-G

[3] The *General Motors* opinion is the most recent to affirm the burden shifting *Wright Line* test.

EXHIBIT A

EQUAL OPPORTUNITY

Greystar is an equal opportunity employer and will comply with all federal, state, and local laws regarding equal employment opportunities and pay. Greystar will recruit, hire, train, and promote the most qualified candidate for every job position and apply this policy to all other terms and conditions of employment. No person will be discriminated against in employment because of race, religious creed, color, age, sex, sexual orientation, gender, gender identity, gender expression, genetic information, national origin, ancestry, marital status, family and medical leave status, medical condition, physical disability, mental disability, military or veteran status, pregnancy, childbirth, breastfeeding and related medical conditions, or any other classification protected by federal, state, and local laws and ordinances. Greystar is committed to making reasonable accommodations to any Team Member with a disability. In addition, any personnel action or employment decision, including references, will be based on and administered in accordance with all federal, state, and local laws and regulations.

Harassment or discrimination in employment will not be tolerated from any Greystar Team Member and may be considered grounds for immediate dismissal. Team Members who feel they have been a victim of discrimination or harassment should contact their supervisor or Talent Management immediately or report it via our third-party vendor, MySafeWorkplace (Convercent), at 1-800-461-9330 or via the internet at www.convercent.com/report. Greystar will not condone any retaliation against any Team Member who reports harassment or discrimination.

FAIR HOUSING

Greystar is committed to compliance with all federal, state, and local fair housing laws. Greystar subscribes to a universal policy for the achievement of equal housing, including promoting an affirmative advertising and marketing program in compliance with all laws prohibiting discrimination, including those that prohibit discrimination based on race, color, religion, national origin, sex, familial status, disability, sexual orientation, gender identity, marital status, and any other federal, state or local laws protecting specific classes.

It is against Company policy to discriminate against anyone in the terms or conditions of contracts, in the privileges or services provided, or in the use of facilities by residents or guests. Regarding the leasing of apartment homes, all persons involved in the leasing process must comply with federal, state, and local housing laws, specifically understanding that discrimination based on any prohibited factor(s) is both a violation of the Federal Housing laws and Company operating policies.

Federal law prohibits discrimination on the basis of race, color, religion, sex, national origin, familial status, or disability. Some states and local municipalities may provide additional protections. All Greystar Team Members are required to follow all applicable local, state and federal fair housing laws. Accordingly, the Company provides Team Members with training on Fair Housing laws and policies and all Team Members are required to complete this training within the first 30 days of employment.

TEAM MEMBERS WITH DISABILITIES

Greystar recognizes and supports its obligation to reasonably accommodate job applicants and Team Members with disabilities who are able to perform the essential functions of the position. The Company will provide reasonable accommodation to otherwise qualified job applicants and Team Members with known disabilities, unless doing so would impose an undue hardship on the Company or pose a direct threat of substantial harm to the Team Member or others.

Greystar policy prohibits discrimination against individuals with a disability in regard to employment application procedures, hiring, advancement, discharge, compensation, training, and all other terms, conditions and privileges of employment.

An applicant or Team Member who believes he or she needs a reasonable accommodation because of a disability should discuss the need for possible accommodation with his or her direct supervisor or next level manager. The direct supervisor or next level manager is responsible for discussing this with Talent Management. Team Members must complete a Job Accommodation Request Form which is available under the Talent Management heading on the Team Member Portal.

The Talent Management Department, in conjunction with managers, is responsible for implementing this policy, including interactive conversations, resolution of reasonable accommodation, safety, and undue hardship issues.

EXHIBIT G

DECLARATION OF (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) hereby declares:

1. I am over the age of eighteen (18) and have personal knowledge of the facts set forth in this declaration, and if called upon to do so, I could and would competently testify thereto.

2. I have been employed by Greystar since (b) (6), (b) (7)(C)] and I have worked at the Infinity LoHi ("LoHi") property since (b) (6), (b) (7)(C)].

3. During my tenure at the LoHi property, I worked alongside (b) (6), (b) (7)(C) who was (b) (6), (b) (7)(C).

4. At LoHi, it is the expectation that residents are treated with white glove service because they have chosen to invest in the luxury property. LoHi is an A+ facility which requires a high level of customer service. It was my experience working with (b) (6), (b) (7)(C) that (b) (6), did not meet that level of customer service to our clients.

5. (b) (6), (b attitude also created significant tension in the office.

6. On at least one occasion, (b) (6), (b) (7)(C) made inappropriate racial comments about one of the residents.

7. I also remember a few times were (b) (6), (b) (7)(C) went on rants filled with explitives about (b) (6), dislike for (b) (6), (b) (7)(C) and some of the residents of the facility. Because of the layout of our facility, on multiple occasions residents could hear (b) (6), comments.

8. I am aware that, (b) (6), (b) (7)(C) expressed a complaint about the return of an employee following potential COVID-19 exposure. I was not present for that complaint. It was my understanding that the employee had tested negative for COVID-19 and also spent over a week quarantining before returning. I believed that Greystar handled the incident properly.

9. I did not share (b) (6), (b) (7)(C) concerns about Greystar's handling of the COVID exposure incident.

10. To the contrary, I understoond that Greystar was in compliance with local rules. I was even present when LoHi was inspected by the local regulatory body, without incident.

11. I was never part of any conversation where (b) (6), (b) (7)(C) and other employees at LoHi expressed shared concerns about the workplace. To the contrary, the only concerns I was aware of related to (b) (6), (b) (7)(C) and (b) (6), ongoing performance-related issues.

12. I never authorized (b) (6), (b) (7)(C) to speak on my behalf to (b) (6), (b) (7)(C) or anyone else.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I executed this Declaration on the (b) (6) day of (b) (6), (b) (7)(C) 2021, in Denver, Colorado.

(b) (6), (b) (7)(C)

From: Barker, Renee <Renee.Barker@nlrb.gov>
Sent: Tuesday, February 2, 2021 4:44 PM
To: Scheffey, Adrienne (Assoc-Den) <adrienne.scheffey@akerman.com>
Subject: RE: Greystar, Case No. 27-CA- 269650

Thanks, Adrienne!

From: adrienne.scheffey@akerman.com <adrienne.scheffey@akerman.com>
Sent: Tuesday, February 2, 2021 4:34 PM
To: Barker, Renee <Renee.Barker@nlrb.gov>
Subject: RE: Greystar, Case No. 27-CA- 269650

I will provide you with both by the end of the day on the 5th. I have been tied up in meetings all day but have your request on my to-do list.

Thank you!

Profile

CONFIDENTIALITY NOTE: The information contained in this transmission may be privileged and confidential, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly proh bited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error and then delete it. Thank you.

From: Barker, Renee <Renee.Barker@nlrb.gov>
Sent: Tuesday, February 2, 2021 4:33 PM
To: Scheffey, Adrienne (Assoc-Den) <adrienne.scheffey@akerman.com>
Subject: Greystar, Case No. 27-CA- 269650

Hi Adrienne,

I was just going through the documents again and I don't think I have your client's response to the allegation that (b) (6), (b) (7)(C) required the Charging Party to use vacation time on (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) If you did respond, will you please point me to it? Otherwise, go ahead and include your response to that allegation along with your client's position on the Charging Party's supervisory status under the Act. Please submit the responses by **Friday, February 5th**.

Feel free to contact me if you have any questions.

Thank you!

Renée

National Labor Relations Board
Region 27--Denver
Direct: (720)598-7397
Main: (303)844-3551
Fax: (303)844-6249
Renee.Barker@nlrb.gov

Go Green! Do not print this email unless it is necessary

The NLRB has converted to an electronic file system
You MUST file all documents electronically through our online E-File system:

E-File Case Documents: https://apps.nlrb.gov/eservice/efileterm.aspx
E-File New Charge or Petition: https://apps.nlrb.gov/eservice/efileterm.aspx?app=chargeandpetition
E-File a FOIA request: https://www.nlrb.gov/news-publications/more-information/foia/how-file-foia-request

From: adrienne.scheffey@akerman.com
To: Barker, Renee
Subject: RE: Greystar, Case No. 27-CA- 269650
Date: Friday, February 5, 2021 12:19:25 PM
Attachments: image001.jpg
(b) (6), (b) (7)(C) (1).pdf

Hi Renee,

(b) (6), (b) (7)(C) job description is attached. (b) (6), (b) (7)(C) was (b) (6), (b) (7)(C). In (b) (6), (b) (7)(C) role, (b) (6), (b) (7)(C) exercised significant independent judgment and when (b) (6), (b) (7)(C) was absent, (b) (6), (b) (7)(C) stepped in as (b) (6), (b) (7)(C). As detailed in (b) (6), (b) (7)(C) job description:

- Acts as (b) (6), (b) (7)(C) [redacted],
  coordinating maintenance and make-ready tasks with (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) operation of
  the community in compliance with Company policies, procedures, and business practices

As for your second question about (b) (6), (b) (7)(C) use of vacation time, the answer is in footnote 1, copied below for your convenience:

- Around the same time that (b) (6), (b) (7)(C) received (b) (6), (b) (7)(C) final warning, the company learned that one of the LoHi employees had been in contact with an individual who had tested positive for COVID-19. Greystar followed CDC and Colorado guidelines. The employee quarantined never experienced symptoms and received a negative COVID-19 test before returning to work. On or around (b) (6), (b) (7)(C) 2020 (well after receiving (b) (6), (b) (7)(C) final warning), (b) (6), (b) (7)(C) expressed concern about working with the employee after (b) (6), (b) (7)(C) negative test expressing concern about possible false negative tests. To accommodate (b) (6), (b) (7)(C), Greystar told (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) could take paid time off for the rest of the day, as well as the following day which was a Friday (Saturday and Sunday were already days off for (b) (6), (b) (7)(C)). (b) (6), (b) (7)(C) also explained to (b) (6), (b) (7)(C) that all COVID-19 protocols had been followed. No other employees expressed concern about how Greystar handled the issue either to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C). Exhibit G, Declaration of (b) (6), (b) (7)(C) at ¶8. (b) (6), (b) (7)(C) complaints were (b) (6), (b) (7)(C) own. *Id.* at ¶12.

Please let me know if this answers your questions or if you need anything else.

Adrienne Scheffey
Akerman LLP | 1900 Sixteenth Street, Suite 1700 | Denver, CO 80202
D: 303 640 2512 | T: 303 260 7712
adrienne.scheffey@akerman.com

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlrb.gov
Telephone: (303)844-3551
Fax: (303)844-6249

February 17, 2021

(b) (6), (b) (7)(C)
[redacted]

Re: Grey Star
Case 27-CA-269650

Dear (b) (6), (b) (7)(C) [redacted]:

We have carefully investigated and considered your charge that Grey Star (Employer) 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 the Employer required you to use vacation time and then terminated you for unlawful reasons; specifically because you engaged in protected activity by raising concerns to your supervisors about a coworker who was returning from quarantine and by contacting the Department of Health with your concerns. In order to establish that the Employer's actions were unlawful under the Act, it must be established that the Employer had knowledge of your protected and concerted activities, or had suspected you engaged in such activities, and that the Employer's actions were motivated by animus towards those activities.

In this case, although you arguably engaged in conduct related to your terms and conditions of employment (safety), there is no evidence to establish that your Employer had knowledge that your conduct was concerted or that it was the logical outgrowth of expressed group concerns. Further, there is insufficient evidence to establish that your Employer harbored animus towards your conduct such that your Employer was motivated to take the adverse actions against you for concerted activity. Because there is insufficient evidence to establish that the Employer's actions were related to any protected, concerted activities, I do not conclude that the Employer violated the Act. I am, therefore, refusing to issue a complaint in this matter.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible (Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlrb.gov. See User Guide. A video demonstration which provides step-by-step instructions and frequently asked questions are also available at www.nlrb.gov. If you require additional assistance with E-Filing, please contact e-Filing@nlrb.gov.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically 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 **March 3, 2021**. 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 March 2, 2021. **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 March 3, 2021.** The request may be filed electronically through the ***E-File Documents*** link on our website www.nlrb.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 March 3, 2021, **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 requests to limit our use of appeal statements or evidence. Upon a request under the Freedom of Information Act (FOIA) by a party during the processing of an appeal, the Agency's FOIA Branch discloses appeal statements, redacted for personal privacy, confidential source protection, or other applicable FOIA exemptions. In the event the appeal is sustained, any statement or material submitted may be introduced as evidence at a hearing before an administrative law judge. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Very truly yours,

Paula S. Sawyer

PAULA S. SAWYER
Regional Director

Enclosure

cc: (b) (6), (b) (7)(C)

Grey Star
5445 DTC Parkway, Penthouse 1
Greenwood Village, CO 80111

Adrienne Scheffey, Attorney
Akerman LLP
1900 Sixteenth St.
Ste. 1700
Denver, CO 80202
adrienne.scheffey@akerman.com

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)

E-FILING TO APPEALS

1. **Extension of Time**: This document is used when the Charging Party is asking for more time to efile an Appeal.

    - If an Extension of Time is e-filed, and there are additional documents to be e-filed simultaneously with it, please e-file those documents under the selection **Correspondence**.
    - After an Extension of Time has already been e-filed, any **additional** materials to add to the Extension of Time should be e-filed under **Correspondence**.

2. **File an Appeal**: If the Charging Party does not agree with the Region's decision on the case, an Appeal can be e-filed.

    - Only **one** (**1**) **Appeal** can be e-filed to each determination in the Region's decision letter that is received.
    - After an Appeal has been e-filed, any **additional** materials to add to the Appeal should be e-filed under **Correspondence**.

3. **Notice of Appearance**: Either party can e-file a Notice of Appearance if there is a new counsel representing one side or a different counsel.

    - This document is only e-filed with the Office of Appeals after a decision has been made by the Region.
    - This document can be e-filed **before** an Appeal is e-filed.

4. **Correspondence**: Parties will **select** Correspondence when adding documents or supplementing the Appeal or Extension of Time.

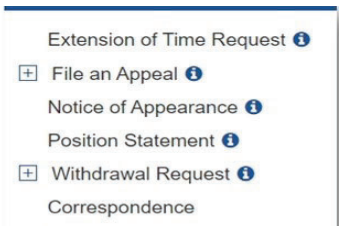
    - Correspondence is used to e-file documents **after** an **Extension of Time, Appeal** or **Notice of Appearance** has been e-filed.

5. **Position Statement**: The Charging Party or Charged Party may e-file a Position Statement.

    - The Charging Party will e-file this document as a supplement of the Appeal.
    - The Charged Party will specifically file one to support the Region's decision.
    - This document should be e-filed **after** an **Extension of Time, Appeal** or **Notice of Appearance** has been e-filed.

6. **Withdrawal Request**: If the Charging Party decides to no longer pursue their appeal, he/she can e-file a Withdrawal Request to the Office of Appeals.

    - This document should be e-Filed **after** an **Extension of Time, Appeal** or **Notice of Appearance** has been e-filed.



7. The selections of **Evidence** or **Other** should no longer be used.