UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
WASHINGTON, D.C. 20424-0001

DEPARTMENT OF VETERANS AFFAIRS RALPH H. JOHNSON MEDICAL CENTER CHARLESTON, SOUTH CAROLINA Respondent and	Case Nos. AT-CA-90904 AT-CA-00003 AT-CA-00004 AT-CA-00005 AT-CA-00006 AT-CA-00007 AT-CA-00009
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, LOCAL R5-136, SEIU, AFL-CIO, NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, LOCAL R5-150, SEIU, AFL-CIO Charging Parties	

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves his Decision, a copy of which is attached hereto, on all parties to the proceeding on this date and this case is hereby transferred to the Federal Labor Relations Authority pursuant to 5 C.F.R. § 2423.34(b).

PLEASE BE ADVISED that the filing of exceptions to the attached Decision is governed by 5 C.F.R. §§ 2423.40-2423.41, 2429.12, 2429.21-2429.22, 2429.24-2429.25, and 2429.27.

Any such exceptions must be filed on or before **OCTOBER 30, 2000**, and addressed to:

Federal Labor Relations Authority
Office of Case Control
607 14th Street, NW., Suite 415
Washington, DC 20424-0001

ELI NASH, JR.
Administrative Law Judge

Dated: September 28, 2000
Washington, DC

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
WASHINGTON, D.C. 20424-0001

MEMORANDUM DATE: September 28, 2000

TO: The Federal Labor Relations Authority

FROM: ELI NASH, JR.
Administrative Law Judge

SUBJECT: DEPARTMENT OF VETERANS AFFAIRS
RALPH H. JOHNSON MEDICAL CENTER
CHARLESTON, SOUTH CAROLINA

Respondent

and Case Nos. AT-CA-90904
AT-CA-00003
AT-CA-00004
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NATIONAL ASSOCIATION OF GOVERNMENT
EMPLOYEES, LOCAL R5-136, SEIU, AFL-CIO
NATIONAL ASSOCIATION OF GOVERNMENT
EMPLOYEES, LOCAL R5-150, SEIU, AFL-CIO

Charging Parties

Pursuant to section 2423.34(b) of the Rules and Regulations, 5 C.F.R. § 2423.34(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties.
Also enclosed are the transcripts, exhibits and any briefs filed by the parties.

Enclosures

FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges OALJ

00-57

WASHINGTON, D.C.

DEPARTMENT OF VETERANS AFFAIRS RALPH H. JOHNSON MEDICAL CENTER CHARLESTON, SOUTH CAROLINA Respondent and	Case Nos. AT-CA-90904 AT-CA-00003 AT-CA-00004 AT-CA-00005 AT-CA-00006 AT-CA-00007 AT-CA-00009
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, LOCAL R5-136, SEIU, AFL-CIO, NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, LOCAL R5-150, SEIU, AFL-CIO Charging Parties	

Gary J. Lieberman, Esquire
For the General Counsel

Donald Wilson, Labor Relations Specialist
For the Respondent

George Reaves, Jr., National Representative
For the Charging Party

Before: Eli Nash, Jr.
Administrative Law Judge

DECISION

Statement of the Case

This proceeding was initiated by an unfair labor practice charge filed on September 30, 1999 and first amended on March 14, 2000, by the National Association of

Government Employees, Local R5-150, SEIU, AFL-CIO (Local R5-150 or Union) against the Department of Veterans Affairs, Ralph H. Johnson Medical Center, Charleston, South Carolina (Respondent). Subsequently, an additional six unfair labor practice charges were filed on October 4, 1999 and first amended on March 14, 2000, by the National Association of Government Employees, Local R5-136, SEIU, AFL-CIO (Local R5-136 or Union) against the Respondent. A Consolidated Complaint and Notice of Hearing was issued in these matters by the Regional Director, Boston Region of the Authority on March 31, 2000. The Consolidated Complaint, as amended at the hearing, alleges that Respondent violated sections 7116 (a)(1) and (5) of the Statute by failing to recognize and refusing to deal with George Reaves, National Representative for the Union, the designated representative of both Unions.[1] The Consolidated Complaint also alleges that the Respondent's failure to recognize Reaves as a representative for the Unions constituted an independent violation of section 7116(a)(1) of the Statute.

A hearing on the Consolidated Complaint was held in Charleston, South Carolina on July 13, 2000, at which time all parties were represented and afforded a full opportunity to adduce evidence, examine and cross-examine witnesses, and argue orally. Counsel for Respondent and the General

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[1] On July 6, 2000 Respondent filed a Motion for Summary Judgement, maintaining that the matters at issue in the Consolidated Complaint were contractual disputes, and that under Article 47 (Grievance Procedure) of the parties' master agreement the grievance procedure was the sole forum to resolve such a dispute. The Respondent also cited Administrative Law Judge William Devaney's Decision in *U.S. Department of Veterans Affairs*, Case No. AT-CA-90578, OALJ 00-42 (June 29, 2000)(exceptions pending before the Authority). The matter involved the parties grievance procedure under Article 47 and in my view, is inapplicable to the instant matter. Consequently, I find any evidence regarding Article 47 is irrelevant to these proceedings. On July 7, 2000 Counsel for the General Counsel filed an Opposition to Respondent's Motion for Summary Judgement on the basis that the Motion was untimely and there were material facts in dispute. The Motion for Summary Judgment was denied because the matter was untimely filed, there were material facts in dispute and that the matter did not involve a contract dispute but the fundamental right of the Unions to designate their representatives.

Counsel filed helped post-hearing briefs which have been carefully considered.

Based on the entire record, including my observation of the witnesses and their demeanor, and from my evaluation of the evidence in this case, I make the following findings of fact, conclusions of law, and recommendations.

Findings of Fact

The National Association of Government Employees (NAGE) is the certified exclusive representative of a nationwide consolidated unit of employees appropriate for collective bargaining, including employees at the Respondent's Charleston, South Carolina facility. One of the Unions involved here, Local R5-150 is the agent for NAGE representing all Registered Nurses at the Respondent. Respondent and Local R5-150 are parties to a master collective bargaining agreement and a supplemental agreement. Respondent and Local R5-136 are also parties to a master collective bargaining agreement and a supplemental agreement.

Local R5-136 is the agent for NAGE representing the non-professional and professional employees at Respondent's Charleston, South Carolina facility, excluding the Registered Nurses.

The master agreement between the Respondent and Local R5-150 expressly provides in Article 7A for the Union's right to designate NAGE representatives not employed by the Veterans Administration (VA) for carrying out representational activities. The supplemental agreement between the Respondent and Local R5-150 does not limit who the Union could designate as its representative.

A. Negotiations on Article 9 of the Collective Bargaining Agreement between the VA and NAGE's Nationwide Consolidated Unit of Non-Professional and Professional Employees

The negotiations for the collective bargaining agreement between NAGE and the VA for the professional and non-professional nationwide consolidated unit began in Washington, D.C. in January 1991 and were concluded in January 1992. NAGE national representative George Reaves

was the Chief Negotiator for NAGE for the master agreement. Reaves was involved in the entire negotiation process on behalf of NAGE. Reaves negotiated the ground rules, drafted and submitted proposals, and negotiated at the table by offering proposals, counter proposals and finally, signing off on the agreement on behalf of NAGE. It is undisputed that Reaves attended every negotiation session, mediation session, and meetings with the Federal Services Impasse Panel. Respondent did not challenge Reaves' testimony concerning the bargaining history of the master agreement and the bargaining history of Article 9. While offering no evidence of its own on the bargaining history of Article 9, Respondent claimed that although Local R5-136 had a right to designate its representative, it waived its right to designate a representative under Article 9, Sections 1 and 4, of the master agreement.[2] According to Reaves' uncontradicted testimony, at no time during negotiations of Article 9 in April and May 1991 was the Union's right to designate a national representative from NAGE as its representative proposed, rejected, or even discussed by either party. Also according to Reaves' uncontradicted testimony, the sole purpose behind NAGE's Article 9 proposal was to articulate how officers and stewards obtain official time, and the amount of official time available for various positions. The intent behind NAGE's Article 9, Section 1 proposal in 1991 was to keep the local facility advised in writing of the names of the officers and stewards for obtaining official time. NAGE's proposal was not intended

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[2] Article 9, Section 1 reads as follows:

> The Employer shall recognize the officers and stewards of the Union. The Union will keep the local facility advised in writing of the names of its officers and stewards. Any changes will be reported to management in writing. A complete revised listing will be provided by the Union at least annually. Management officials of the Employer will officially recognize only those Union representatives who have been appointed and reported in keeping with this article.

Article 9, Section 4 reads as follows:

> Representatives of the national office for NAGE will be allowed to visit the facilities on appropriate union business. (Jt. Exh. 1).

to apply to NAGE national representatives from the Union since such representatives do not need official time. Nor was the intent of the Union's proposal in Article 9 to limit who the Union could designate as its representatives.

Reaves added that Respondent's counter proposals differed from the Union's, the major difference between the parties on Article 9 concerned official time for local union officers. However, neither party proposed either limiting who a local union could designate as its representative, or a requirement prohibiting local unions from designating representatives not employed by the VA.

B. NAGE National Representative George Reaves' Representation of Local R5-150 and Local R5-136 at Respondent's Facility

It is undisputed that Reaves, as a national representative for NAGE, represents NAGE locals before various Federal sector agencies in states located primarily in the southeast of the United States. Reaves provides a variety of services for NAGE locals, including impact and implementation bargaining, supplemental negotiations grievances and arbitrations.

Reaves, is employed by NAGE, and his office is located in Hampton, Virginia. Hampton, Virginia is approximately a four to five hour trip from Charleston, South Carolina. Reaves has traveled to the Respondent's facility in Charleston, South Carolina, approximately six or seven times a year since 1996 to perform representational work on behalf of both Locals. In 1997, Reaves was the Chief Negotiator for the supplemental agreements for both NAGE Locals at the Respondent. The negotiations for both of the supplemental agreements took place at the Respondent's facility in Charleston. Cheryl Cote, the current Manager for Human Resources for the Respondent, was on the Respondent's negotiating team for both of the parties' supplemental agreements. In addition to being involved in supplemental negotiations for the two NAGE Locals at Charleston, Reaves has also negotiated impact and implementation matters on behalf of Local R5-136. Prior to August 1999, neither Cote, nor labor relations specialist Donald Wilson, nor any management official at the Respondent, ever raised an issue with Reaves representing either of the NAGE Locals, or with his negotiating on their behalf.

C. **Labor-Management Relations at the Respondent**

The parties' collective bargaining agreements require each of the Unions herein to provide Respondent with a list of officers and stewards, and a separate list of officers and stewards designated to pick up documents from the Respondent's Human Resources Office during normal business hours. However, the list of officers and stewards is for official time purposes. Both master agreements provide that the Locals must notify the Respondent of any changes in their officers and stewards. Since at least 1989, union stewards and officers designated to receive documents from the Respondent's Human Resources Office are required to sign for the documents in a log book in order to acknowledge receipt of the document.

Upon receipt of the Respondent's notification of a change in working condition, both NAGE locals have fifteen days to submit proposals. Respondent regularly checks the log book to determine if a particular notice was picked up in order to calculate the fifteen day deadline. Respondent maintains that the fifteen day response requirement was one of the reasons for not contacting Reaves during the period of August 9-20, 1999.3

After the Unions submit proposals, Wilson *normally* calls the Union office to arrange a mutually agreeable time to bargain. E-mail is used between the parties only to confirm a previously scheduled bargaining session. Contrary to the above practice, Wilson e-mailed the Union presidents to set up a bargaining schedule. The record shows that Wilson sent those e-mails on a non-work day. Additionally, those e-mails were sent while both presidents were to be in Baltimore, Maryland for national negotiations. In the

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More specifically, Wilson and Cote maintained that if Reaves was not in his office to receive a faxed proposal, it would not be able to determine when the Union received a document. Nevertheless, the facts are undisputed that the Respondent could have faxed Reaves any proposals and relied on a fax confirmation for proof of its receipt. Moreover, in six out of the seven charges that are alleged in the consolidated Complaint, the Unions had *already* been notified of the proposed changes, and had submitted proposals. All the Respondent had to do was to notify Reaves, and mutually arrange a time to bargain.

circumstances, it cannot be found that the e-mails were notices of negotiation sessions. Moreover, Wilson had already received the Unions designations for Reaves to act for them during this period of time so it was unnecessary to send these e-mails.

D. Designation of Reaves as the Representative for Local R5-136 and Local R5-150

In the Spring of 1999, both local Union Presidents, Kate Smith and Phil Truesdell were named to the national negotiating team for NAGE. Negotiations were held in Baltimore, Maryland. This required Smith and Reaves to be away from the Charleston facility for three, two-week periods in the Summer of 1999. The two-week periods were from June 14-25, July 12-23, and August 9-20, 1999.[4]

During the first period in which Smith and Truesdell were in Baltimore on national level negotiations, June 14-25, the Unions named other local Union officials as their Acting Presidents. Local R5-150 named Steward Mary McCarthy as its Acting President; Local R5-136 named its Chief Steward Arthur Pinckney as the Acting President for the first week in June, and its Executive Vice-President Tim Poston as the Acting President during the second week. It was anticipated by both Smith and Truesdell that the Acting Presidents would receive the same official time that they have each received under the parties' negotiated agreements. However, upon their return from Baltimore, both Smith and Truesdell learned of some difficulties that McCarthy and Poston had in obtaining official time for representational duties.

Because of the official time problems the Unions experienced during the Presidents' absence in June 1999, Smith and Truesdell requested that during the second period of their anticipated absence, July 12-23, that the parties hold matters in abeyance. Grievances were still to be handled by stewards during this period. Respondent maintained that the local Unions were attempting to avoid their bargaining obligations during this period.

Prior to the third period August 9-20, during which Smith and Truesdell planned to be in Baltimore for

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4 All dates are 1999, unless otherwise indicated.

negotiations, Reaves, Smith and Truesdell met in Charleston with the Respondent's Chief Executive Officer R.J. Vogel and Wilson. The purpose of this meeting was to reach a workable solution to the problems concerning the designation of acting union presidents and official time. During this meeting, neither Wilson nor Vogel expressed any problem with Reaves representing the Unions. Reaves suggested at the meeting that he would be designated as the Acting President for each of the Unions. At the time, the Respondent did not raise any objections to Reaves' solution. No agreement was reached during this meeting, however.

On August 2, both Unions provided Respondent with a letter designating Reaves as their respective Acting President during the period August 9-20. Reaves was appointed as the Acting President because of his experience in negotiations and the Unions' desire to provide effective representation during the brief absence of the Unions' Presidents. The designations provided that Reaves had the full authority to act on the Unions' behalf, and provided that Reaves was to receive all correspondence from the Respondent during this time period. Accordingly, Respondent was notified, and fully aware, that both Locals gave Reaves the full authority to act on their behalf. In the designation letters, Respondent was provided with both the phone and facsimile numbers of Reaves in Hampton, Virginia. Reaves, who had traveled to Charleston for negotiations in the past on many occasions, was available to travel to Charleston during the two week period for any mutually agreeable time scheduled for negotiations.

On August 4, Respondent's Chief Executive Officer R.J. Vogel asked both Locals for clarification as to who at the facility would be representing the Unions for routine labor-management relations such as picking up mail, responding to bargaining requests and attending meetings. Both Locals promptly responded on August 6, prior to leaving for Baltimore on negotiations. Presidents Smith and Truesdell provided further clarification, in writing, that Reaves was designated as the Acting President, and that he would be responding to all bargaining requests. Both letters stated in part:

> All matters involving labor-management relations are to be forwarded to him [Reaves] in Hampton Virginia. He will be responding to bargaining

requests. Telephone and fax provided previously.

(G.C. Exh. 4, 12).

E. Respondent Seeks to Negotiate Matters Prior to Truesdell's Departure for National Level Negotiations on August 9, 1999

Immediately before Truesdell departed for Baltimore in August 1999, Wilson was eager to begin negotiations on a variety of subjects with Local R5-136. On August 5, Wilson sent Truesdell an e-mail explaining that he had five matters he needed to "get onto the bargaining table" (PPE, HAO Move, Canteen Move, Realignment Respiratory and Escort, and Pharmacy Standards Board). On Friday, August 6, around 4:00 p.m., Wilson approached Truesdell in the Union office and wanted to know who locally was going to be in Charleston to negotiate. Truesdell informed Wilson that he should contact Reaves, the Union's designated representative. Wilson asked Truesdell if Reaves was going to be in Charleston; again, Truesdell suggested that Wilson contact Reaves directly. Wilson chose not to contact Reaves.

F. Respondent Unilaterally Arranges Bargaining Sessions and Fails to Contact Reaves

Union Presidents Smith and Truesdell left for national level negotiations in Baltimore on the morning of August 9, after designating Reaves as the Acting President for both Locals. During the first week of Truesdell's absence in August 1999, Arthur Pinckney, Chief Steward for Local R5-136, agreed to permit the Respondent to conduct a move concerning the Respondent's Prosthetics service because the Union did not want to hold up the move. Also during the week of August 9-20, 1999, Wilson paged Pinckney one morning to attend a negotiation session later that afternoon concerning the relocation of the Respondent's canteen service because of a remodeling project that was imminent. Pinckney was under the mistaken impression that Reaves would

be in Charleston, and in attendance at the meeting.[5] Pinckney informed Wilson that Respondent needed to contact Reaves. Wilson responded that he was not going to deal with the Unions' national representative. The Respondent failed to either contact Reaves during the period August 9-20, to arrange any bargaining sessions, or notify him of any proposed changes in working conditions.

On Saturday, August 14, at 5:04 p.m., while the Union Presidents were in Baltimore on national level negotiations, Wilson sent an e-mail via the Respondent's internal e-mail system to Smith, President of Local R5-150, and other local officials for Local R5-150. It is worthy of note that both the day and time are outside normal work hours, but Wilson claims that the messages were sent through an e-mail system that was accessible outside of the facility, and that he anticipated that the Unions would contact Reaves about the negotiation sessions. It is undisputed, however, that even though both Unions had designated Reaves as their representative, Respondent never contacted Reaves about negotiation sessions, but instead either contacted the Union representatives, who were out of town or on an e-mail system that they might not visit and placed the burden on those officials to contact Reaves to attend the bargaining sessions Wilson had arranged. Despite the fact that Wilson had been repeatedly told that he should contact Reaves on these matters. The e-mail message to Smith, Local R5-150 stated, in part:

> NAGE R5-150: The Agency will meet to bargain as follows: Tuesday 8-17-99 @ 10:00 a.m., Room A573, on GU Clinic Move (G.C. Exh. 8).

Nobody from Local R5-150 read the e-mail until after the August 17, negotiation date designated by Wilson. Union President Smith did not read the e-mail until her return from Baltimore. Reaves was not notified by the Respondent of the negotiation session scheduled by Wilson.

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[5] It is worthy of note that, the Consolidated Complaint does not allege that the Respondent failed to recognize the Unions' designation of Reaves with regard to the relocation of Prosthetics and the Canteen Service. In any event, it is clear from the record that Respondent never notified Reaves of any negotiation sessions during the period of August 9-20, 1999.

Additionally, Wilson sent Truesdell a message via the Respondent's internal e-mail system on Saturday, August 14, establishing negotiation sessions for the following subjects:

> Monday 8-16-99 @ 1:00 p.m., Room A573, Rascoe/Bursley Move; Tuesday 8-17-99 @ 1:00 p.m., Room A573, HAO Move, Martin; Wednesday 8-18-99 @ 1:00 p.m., Room A573, Realignment Escort/Respiratory; Thursday 8-19-99 @ 10:00 a.m., Room A573, Pharmacy Stds Board CPM (G.C. Exh. 15).

Truesdell did not read the message until his return from Baltimore after August 20, 1999. Wilson admittedly sent no fax of the message to Reaves, nor did he attempt to get in touch with Reaves, even though Reaves had been designated as the Union's representative during the period of August 9-20.

Since the Unions were unaware of the negotiation sessions set up by Wilson, they did not send a representative to the negotiation sessions. Reaves, who was available during the week of August 9-20, and willing to travel to Charleston, was not notified by the Respondent of the negotiation sessions. Wilson acknowledged that he did not contact Reaves during the period August 9-20, by Fax, or telephone, for fear of establishing a new "practice." Cote, Respondent's Human Resources Manager, conceded that her predecessor, Allan Graves, contacted Reaves in Virginia by facsimile in October 1996 when negotiating the parties' supplemental agreements.

G. Respondent Refuses to Recognize Reaves in Negotiations with Local R5-150 on Changes in the GU Clinic

The Genital Urinary (GU) Clinic is an outpatient clinic located on the third floor of the medical center. In 1999 Local R5-150 represented a registered nurse in the GU Clinic, Mary McCarthy. On June 3, Local R5-150 received notification from the Respondent that it intended to move McCarthy from one room to another due to the renovation of the GU Clinic. Thereafter, Smith, McCarthy (who is also a Union Steward), and Wilson met and discussed the proposed change. The Respondent agreed to provide additional information to the Union. Subsequently, Local R5-150 received more information from the Respondent dated July 20,

concerning the relocation of McCarthy, a blueprint, and new information concerning changes in McCarthy's duties.

On August 12, Local R5-150 submitted proposals regarding the renovation of the GU Clinic. The proposals were drafted by McCarthy and signed by Reaves. Reaves had previously been designated as the representative for Local R5-150 during Smith's absence during the period August 9-20, and had signed off on the proposals submitted by the Union. Reaves was prepared to negotiate the renovations surrounding the GU Clinic as the Union's Chief Negotiator. On August 14, the Saturday before Smith was to depart for Baltimore, Wilson disregarded the Union's designation of Reaves as its representative, and instead, sent an e-mail to Smith, who was headed for Baltimore on Union business at that time, and refused to notify Reaves of the bargaining session that he had arranged by e-mail.6

H. Respondent Refuses to Recognize Reaves in Negotiations with Local R5-136 on Relocation of Rascoe/Bursley and Martin

Oveta Rascoe and Marsha Bursley are Medical Records technicians at the Respondent and are in Local R5-136's bargaining unit. Local R5-136 received notification from the Respondent dated July 16, that it planned to move moving Rascoe and Bursley to another office due to renovations in the hospital. On August 2, Local R5-136 submitted its proposals regarding the Rascoe/Bursley relocation.

Dottie Martin is employed by the Respondent as a Patient Services Assistant, and is in the bargaining unit represented by Local R5-136. On July 29, the Union received notification of the Respondent's intention to relocate Martin in the hospital. On August 5 and 6, Wilson e-mailed the Union and discussed with Truesdell his desire to negotiate Martin's move. Truesdell informed Wilson that he should contact Reaves, the Union's designated representative. Two months earlier, Reaves and Wilson negotiated the impact and implementation of a work relocation of a bargaining unit employee similar to those of

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The Consolidated Complaint in this case is limited to the Respondent's failure to recognize Reaves as the Unions' designated representative. The Consolidated Complaint does not allege that the Respondent unilaterally implemented changes in working conditions.

Rascoe/Bursley and Martin. On August 9, the Union submitted its proposals regarding the relocation of Martin.

On August 14, Wilson e-mailed Truesdell, in Baltimore, of negotiation sessions on August 16, for the Rascoe/Bursley relocation, and on August 17, for the Martin relocation. This despite Truesdell having informed Wilson that he should contact Reaves as the designated representative. Again, although Reaves was the Union's designated representative during that period, Respondent did notify him of the bargaining sessions established by Wilson.

I. Respondent Refuses to Recognize Reaves in Negotiations with Local R5-136 on Changes to Pharmacy Standards Board

Local R5-136 represents Pharmacists and Technicians in the Respondent's Pharmacy. Respondent's Pharmacist Standards Board, which includes bargaining unit employees, determines the eligibility and appropriate grade and step for appointment of pharmacists. On April 29, the Union submitted proposals following receipt of a proposed change by the Respondent to the composition of the Pharmacist Standards Board on April 19. On May 7, Local R5-150 received from the Respondent an amended notification of changes to the Pharmacist Standards Board. On May 20, the Union submitted proposals identical to the proposals submitted on April 29.

After the Union submitted its proposal on May 20, the Respondent did not attempt to arrange a negotiation session on the Pharmacist Standards Board until August 5, the date Wilson e-mailed Truesdell concerning arrangements for negotiation sessions on a variety of subjects, including the Pharmacist Standards Board. Accordingly, on August 6, Truesdell informed Wilson that he should contact Reaves, as he was the Union's designated representative to negotiate on behalf of the Union.

On August 14, Wilson e-mailed Truesdell about a negotiation session on August 19, for the changes to the Pharmacy Standards Board. As was the case with the Rascoe/ Bursley and Martin relocation, Reaves, the Union's designated representative during that period, was not notified by the Respondent of the bargaining sessions arranged by Wilson.

J. **Respondent Refuses to Recognize Reaves in Negotiations with Local R5-136 on the Realignment of Respiratory Therapy and Escort Section**

Local R5-136 represents Respiratory Therapists in the Respondent's Respiratory Therapy Section and Nursing Assistants in the Respondent's Escort Section. On May 28, the Union received notification from the Respondent, including an organizational chart, that effective June 13, it planned on realigning the Respiratory Therapy and Escort Section.

On June 11, the Union submitted proposals regarding the proposed change. Chief Steward Arthur Pinckney, and Steward Corrin Marinko met with representatives from the Respondent to discuss the proposed realignment while Truesdell was in Baltimore in June 1999. No agreement was reached between the parties at this meeting.

On August 14, Wilson e-mailed Truesdell of a negotiation session he planned on August 18, concerning changes to the Pharmacy Standards Board. The Respondent again failed to notify Reaves of the bargaining session established by Wilson.

K. **Respondent Refuses to Recognize Reaves in Negotiations Over Changes in Parking**

During the period of August 9-20, Reaves was the designated representative for Local R5-136, to receive notification of all changes in working conditions. Although Chief Steward Pinckney had been authorized to pick up, and sign for documents from the Respondent's Human Resources Office in the past, during the week of August 9-20, Local R5-136 made a clear designation that all matters involving labor-management relations should be forwarded to Reaves in Hampton, Virginia.

Chief Steward Pinckney was only authorized to pick up grievance responses from the Respondent, and not proposed changes in working conditions, during the period of August 9-20. Consequently, during the period of August 9-20, Pinckney and Steward Walter Truesdell, refused to sign for proposed changes in working conditions, and instructed Wilson to forward the proposed changes to the Acting

President, George Reaves. One of the notices that Steward Truesdell refused to sign for on August 13 and August 17, concerned proposed changes in Parking Lot Area/Bravo Street of the facility. Stewards Truesdell and Pinckney, instructed Wilson to forward the proposed changes to the Union's designated representative George Reaves.

Notwithstanding the Union's informing Respondent that Reaves was its designated representative for that period, Respondent did not send a copy of the proposed changes in parking to Reaves. Furthermore, Union President Truesdell did not receive a copy of the proposed change until he returned from Baltimore, on August 24. Although the Union did submit proposals on August 31, the proposals were later declared untimely by the Respondent.7

Analysis and Conclusions

A. The Respondent Violated Section 7116(a)(1) and (5) and Section 7116(a)(1) of the Statute by Failing and Refusing to Recognize the Unions' Designated Representative George Reaves

The issue in this case is whether or not Respondent violated section 7116 (a)(1) and (5) and section 7116(a)(1) of the Statute by failing and refusing to recognize the Unions' designation of NAGE National Representative George Reaves as their representative during the period August 9 through August 20, while the Unions Presidents were in Baltimore, Maryland on national negotiations.

It is already settled that agencies have an obligation to recognize and deal with representatives selected to act for the collective bargaining representative. The evidence in this case established that Respondent failed and refused to recognize the Unions' designation of Reaves, during the period of August 9-20, in violation of sections 7116(a)(1) and (5) of the Statute. Also, it is contended that Respondent's conduct interfered in the Unions' internal affairs in violation of section 7116(a)(1) of the Statute.

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Although the Consolidated Complaint does not allege a unilateral change in working conditions, or a failure to bargain, the problems surrounding the Respondent's refusal to recognize Reaves is amplified in AT-CA-00007. Since Reaves did not receive a copy of the proposed change, the Union was unable to submit timely proposals.

In this regard, the General Counsel argues that the right to designate its own representative, including non-employees of the VA, is a fundamental statutory right, under section 7114 of the Statute.

Respondent steadfastly maintained that the parties had a past practice of dealing only with local Union representatives in Charleston, and that NAGE waived its statutory right to designate its own representatives. Respondent also argues that there was no underlying bargaining obligation in the cases.[8]

A. Union's Right to Designate NAGE National Representative George Reaves is a Statutory Right

It is well established that "it is within the discretion of both agency management and labor organizations holding exclusive recognition to designate their respective representatives when fulfilling their responsibilities under the Statute." *American Federation of Government Employees, AFL-CIO*, 4 FLRA 272, 274 (1980). Furthermore, an exclusive representatives right to designate its own representative is a statutory right under section 7114 of the Statute. *Internal Revenue Service, Washington, DC*, 39 FLRA 1568, 1574 (1991), *vacated as to other matters sub nom. Internal Revenue Service, Washington, DC v. FLRA*, 963 F.2d 429 (D.C. Cir. 1992), *remanded Internal Revenue Service, Washington*, DC, 47 FLRA 1091 (1993). Absent special circumstances, an agency violates sections 7116(a)(1) and (5) of the Statute when it refuses to honor a Union's designation. *Food and Drug Administration, Newark District Office, West Orange, New Jersey*, 47 FLRA 535, 566 (1993). It is also recognized that a refusal to recognize a representative constitutes an attempt to interfere in a union's internal affairs in violation of section 7116(a)(1) of the Statute. *United States Department of Transportation, Federal Aviation Administration, Washington, DC*, 20 FLRA 548, 562 (1985), *remanded on other grounds sub nom. Professional Airways Systems Specialists, MEBA, AFL-CIO v. FLRA*, 809 F.2d 855

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[8] Respondent's action of notifying both Unions of changes in working conditions, and establishing negotiation sessions, shows otherwise. Furthermore, the essential element of the Consolidated Complaint is that Respondent refused to recognize the Unions' designated representative and not that it implemented any unilateral changes in conditions of employment.

(D.C. Cir. 1987)(citing *Philadelphia Naval Shipyard*, 4 FLRA 255, 269 (1980)).

Because an agency may be charged with an unfair labor practice for failing or refusing to notify and bargain with a duly authorized representative of a labor organization, an agency is entitled to clear notification of any delegation of authority by the labor organization. *Federal Emergency Management Agency, Headquarters, Washington, DC*, 49 FLRA 1189, 1201-02 (1994). The burden is on the exclusive representative to clearly inform the agency of any relevant delegation, which individuals are authorized to act as its representative and the scope of their authority. *Id.*

B. **The Respondent Violated the Unions' Statutory Right to Designate the Representative of their Choosing**

The instant record established that August 1999, both Unions made a clear and valid, designation of George Reaves, as their Acting President, for the period August 9-20. Prior to leaving for national level negotiations in Baltimore, on August 2 and 6, both local Presidents provided Respondent with written notification that Reaves would be the Acting President with full authority to represent the Unions in any negotiations. On August 6, Truesdell also verbally informed Wilson that he should contact Reaves to negotiate any matters.

During the period of August 9-20, Wilson chose to ignore the Unions' clear designation of Reaves and attempted to negotiate with Local R5-136's Chief Steward Arthur Pinckney. Pinckney also told Wilson that the Respondent should be dealing with Reaves, the designated representative. Notwithstanding, the Unions informing Respondent of the relevant delegations, naming the individual authorized to act as their representative and the scope of his authority, Wilson refused to contact that designated representative. Thus, Wilson e-mailed the Local Presidents on Saturday, August 14, in an effort to establish negotiations for the following week although he was fully aware that neither Smith nor Truesdell would retrieve the e-mail, and would not be available for the negotiation sessions because both were then in Baltimore, Maryland.

The record also discloses that Reaves was willing and able to travel to Charleston for negotiations on behalf of both NAGE Locals during the brief period, August 9-20.

Since 1996, Reaves has been to the facility six or seven times a year, negotiated both of the Locals supplemental agreements with Human Resources Manager Cote in Charleston and reached an agreement with Wilson on an office relocation on behalf of Local R5-136 in June 1999, just two months prior to the August period at issue.[9] Notwithstanding the clear designations of Reaves, his prior representation of both Locals, and his ability and willingness to travel to Charleston for negotiations during the August 9-20 period, he was never contacted by Respondent about either the negotiation sessions established by Wilson, or provided a copy of the proposed change in parking at the facility. Rather, the Respondent ignored the clear designation of Reaves by not contacting him. In so doing, Respondent ignored the Unions' statutory right to designate a representative of its choosing.

Again, it is noted, that the alleged violations occurred with the narrow time frame of August 9-20. In Case Nos. AT-CA-90904, AT-CA-00003, AT-CA-00004, AT-CA-00005, AT-CA-00006 and AT-CA-00009, Respondent notified the Unions of changes in working conditions of their bargaining unit employees. The Unions in each instance exhibited their desire to bargain by submitted proposals. In AT-CA-90904, Reaves signed off on the proposals submitted to the Respondent by Local R5-150. The record discloses that Respondent was eager to begin negotiations on the subjects in each of the cases in early August 1999. It also reveals that instead of pursuing negotiations with the designated representative chosen by the Unions, Respondent decided to deal only with representatives that it wanted in order to maintain the "*status quo*."

In Case No. AT-CA-00007, Respondent did not provide Reaves with a proposed change in parking, but attempted to deliver it to individuals not authorized at the time to pick up proposed changes of working conditions. Respondent's failure to provide notice of the changes in parking to the representative designated by Local R5-136 constitutes a refusal to recognize the designated representative and thereby constituted a violation of sections 7116(a)(1) and

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[9] Respondent offered evidence to show that Reaves would not show up for negotiations in Charleston. In light of the undisputed evidence that Wilson never attempted to contact Reaves to inform him of the negotiation session, such evidence is immaterial.

(5) and section 7116(a)(1) of the Statute. *See U.S. Department of Transportation, Federal Aviation Administration, Oklahoma City Airway Facilities Sector, Oklahoma City, Oklahoma*, Case Nos. 6-CA-30043 & 6-CA-30044 (1984), ALJ Decision Report No. 38 (July 5, 1984)(*FAA*).

Respondent's dual claim that Reaves would not be available to negotiate during the period of August 9-20, due to his travel schedule, and that by appointing Reaves, the Unions were attempting to delay negotiations has no merit. Since Respondent never contacted Reaves this argument is no more than conjecture on its part. In the first place, as already noted, Respondent never contacted Reaves to see what his scheduling was. If indeed Respondent had contacted Reaves and he was unavailable there would have been no hearing in this matter since Respondent would have met its obligation. Secondly, the record fails to support Respondent's claim that the Unions were attempting to delay negotiations. Contrarily, the record shows that the Unions in this case submitted proposals and designated a representative, as is required by the Statute, to act for the two Union Presidents who were absent on approved business for the period in question. Moreover, the record reveals that by designating Reaves the Union Presidents attempted to find a workable solution to problems they experienced during previous absences. In the circumstances, it can hardly be found that the Unions were avoiding any statutory obligation to bargain in a timely fashion. Respondent, on the other hand, although it had the Unions proposals in hand, never attempted to contact Reaves to determine his availability to negotiate. In spite of the Unions' designations, Respondent continued to seek negotiations with a representative who insisted that the Respondent contact Reaves. Thus, it seems that Respondent actively evaded its statutory obligation to recognize the Unions' designated representative.

D. The Master and Supplemental Agreements Between the Parties Did Not Preclude the Designation of Reaves as the Unions' Representative

In *Internal Revenue Service, Washington, DC*, 47 FLRA 1091, 1103 (1993), the Authority concluded that when an agency claims as a defense to a specific provision of the parties' collective bargaining agreement permitted its actions alleged to be an unfair labor practice, the

Authority will determine the meaning of the parties' collective bargaining agreement to resolve the unfair labor practice. The Authority concluded:

> The focus will be on the interpretation of the express terms of the collective bargaining agreement. HHS v. FLRA, 976 F.2d at 1235. Nevertheless, the meaning of the agreement must "[u]ltimately . . . depend[] on the intent of the contracting parties." Local Union 1395, IBEW, 797 F.2d at 1034 (quoting Gateway Coal Co. v. UMW, 414 U.S. 368, 382 (1974)). The parties' intent must be given controlling weight, "whether that intent is established by the language of the clause itself, by inferences drawn from the contract as a whole, or by extrinsic evidence."

Id. at 1110. In interpreting the meaning of an agreement, the Authority has advised that administrative law judges should consider any past practices relevant to the interpretation of the agreement. *Id.* at 1111. Thus, in cases in which the General Counsel makes a *prima facie* showing that a respondent's actions would constitute a violation of a statutory right, the respondent may rebut the General Counsel's *prima facie* case by a preponderance of the evidence that the parties' collective bargaining agreement allowed the respondent's actions. *Id.*

1. Local R5-150's master and supplemental agreements do not bar the designation of Reaves

In this case, the General Counsel made a *prima facie* showing that the master and supplemental agreements covering Local R5-150 did not prevent the designation of Reaves as it representative or to act as president. The master agreement expressly provides in Article 7A for the Union's right to designate a NAGE representative not employed by VA for

carrying out representational activities.[10] Furthermore, the supplemental agreement does not preclude such a designation, nor was the matter discussed during supplemental negotiations. Respondent failed to rebut that *prima facie* showing that Article 7 permitted its action in this matter. Thus, Respondent offered no evidence and argued only that a past practice had been established "over a long period of time, 11 years at least in the case of NAGE Local R5-136." The evidence in this case clearly shows that Respondent has dealt with a NAGE National Representative on many occasions and on many different issues. I see no evidence that any "practice" developed that would prevent Reaves from acting as the Unions' representative. Accordingly, it is concluded that the express language of Article 7 clearly permits "non-VA employees" to act as duly authorized representatives at the Respondent's facility.

2. Local R5-136's master and supplemental agreements do not preclude the designation of Reaves

The Respondent contends that Article 9, Sections 1 and 4 of the master agreement covering Local R5-136 prohibits the Local from designating Reaves as the Acting President, with full authority to negotiate, during the period August 9-20. Respondent, relies exclusively on the express language of the agreement.

Under Article 9, Section 1 of the agreement the employer shall recognize the officers and stewards of the Union. Further, the Union is required to advise the local facility, in writing, of the names of the officers and of any changes. I find nothing in the express language of the agreement that precludes the Union from appointing a non-VA employee or a NAGE national representative as its

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[10] Article VII, Section A reads as follows:

> The union shall be entitled to act for and to negotiate on behalf of all employees covered by this agreement. The Employer agrees to recognize representatives designated by the union including officers and representatives, local unit officers, and non-VA employee officials as duly authorized NAGE representatives for carrying out representational activities consistent with the Act and the terms of this agreement. (Jt. Exh. 3).

representative or Acting President. Moreover, Article 9, Section 5 of the agreement expressly provides that representatives of the national office for NAGE are allowed to visit the facilities on appropriate union business.

Reaves was the Union's Chief Negotiator during 1991, his unchallenged testimony is credited.[11] Reaves uncontradicted testimony reveals that the parties, by agreeing to Article 9, never intended to limit who the Union could designate. In fact, as testified by Reaves, who drafted the Union's proposals and attended every negotiation session, the parties never even discussed who the Union could designate as its representative or as an officer in the Union. It is undisputed that the only real issue during negotiations with regard to Article 9 was whether official time for local union officers would be negotiated at the local level. Article 9, Section 1 does not, nor was it intended to, address NAGE national representatives who do not need official time to perform representational work. In addition, although not specifically raised by the Respondent, nothing in the supplemental agreement between Local R5-136 and the Respondent addressed this issue.

Accordingly, it is concluded that the General Counsel made a *prima facie* showing that the master and supplemental agreements covering Local R5-136 did not prevent the designation of Reaves as it representative or to act as president. The instant Unions had a statutory right, to appoint Reaves as their designated representative or officer. Further, it is concluded that Respondent failed to rebut the *prima facie* showing that Article 9 barred the designation of Reaves. Accordingly, it is found that the Master and Supplemental Agreements do not preclude a

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[11] Respondent asserts that Reaves lacks credibility. I disagree. In this same vein, the General Counsel urges that an adverse inference can be drawn from Respondent's failure to call Norm Jacobs, a member of management's negotiation team in 1991, who is still employed at the VA's Central Office. The General Counsel asserts that Jacobs' testimony concerning the bargaining history on Article 9 of the master agreement would be favorable to its case. *United States Department of Justice, Immigration and Naturalization Service,* 51 FLRA 914, 926 (1996). Since I find no compelling reason to discredit Reaves' undisputed account of the bargaining, I decline to find that Jacobs' testimony would be favorable to the General Counsel.

designation such as found in this case, and further that Respondent was clearly notified of the designations.

E. Did the Unions Waive Their Statutory Right to Designate Reaves Through a Past Practice

Respondent claims that the Unions waived their right to appoint Reaves as the Acting President during the period of August 9-20, because of a practice of only dealing with Union officers and stewards at the facility. According to Respondent, the Unions waived their statutory right to designate a representative by practice, and it could insist on negotiating with local officers even after a clear designations, such as here, had been made. This argument lacks support. Only recently, it was held that the waiver of a statutory right must be clear and unmistakable. *FAA; see also Federal Aviation Administration*, 55 FLRA 254 (1999). Based on the instant record, the undersigned cannot conclude that there was a clear and unmistakable waiver here.

Additionally, Respondent failed to establish by a preponderance of the evidence that the "past practice" of dealing with local union officials was applicable to the situation here. Respondent apparently seeks to create a distinction without a difference. In my opinion, the record supports the reasonableness of the General Counsel's view that there was no practice with regard to negotiations as Respondent contends. The Union Presidents selected Reaves as the Acting President during their absence in August 1999, because of his experience and ability as a negotiator. This designation as already noted was a fundamental right of the Unions. Moreover, Respondent never denied that the Unions had a right to designate its representatives.

The record discloses that although the Unions had not designated a NAGE national representative in the past as its Acting President, Reaves had on numerous occasions represented the Locals in negotiations held in Charleston. Thus, Reaves negotiated both local supplemental agreements with Human Resources Manger Cote as the Unions' Chief Negotiator, and a memorandum of understanding on an office relocation with Wilson. Furthermore, Respondent's claim that it had never reached Reaves by facsimile in the past is negated by the showing that Cote's predecessor faxed Reaves during the supplemental negotiations in 1996. Even if such a defense is viable under the Statue, Respondent failed to

demonstrate that by negotiating with local officers, the parties had established any practice whereby the Unions' waived their statutory right to designate a representative. Of course, dealing with local officials on a day-to-day basis was the practice. The only practice that would be relevant to this case would, in my view, be one where it had dealt with local officials when the Presidents were unavailable. In this regard, it is clear that on at least one previous occasion the Unions sought to use local officials in bargaining while they were unavailable, but this did not create a practice as Respondent suggests. In fact, this arrangement created problems which the parties subsequently sought to avoid. Respondent's fear of creating a new practice of dealing with Reaves, in this limited time frame of August 9-29, is further flawed by its failure to present any evidence of a practice where the local Unions' Presidents were unavailable for a short period of time, for any reason. Here the record revealed that the Unions were seeking an accommodation for official time problems it had when the Union presidents were unavailable on national negotiations. The Unions decided to avoid such problems by designating Reaves to handle negotiations, but not grievances. The Unions were unsuccessful in their attempt. Therefore, the Union decided to and did inform Respondent by writing and outlining Reaves responsibilities that he would be their representative for the period in question.[12] Respondent never directly questioned the validity of that designation. The Unions were not asking for Respondent's approval of Reaves, but were exercising a fundamental right. A right that was previously found not barred by the parties agreements.

Respondent's claims that it did not have a problem recognizing Reaves as long as he is at Respondent's facility in Charleston. However, it would not notify him directly to arrange a bargaining session. This argument is dissembling. Of course, the representative must be at the facility to negotiate, however, if the representative is never notified of pending sessions by an agency, how could the representative fulfill such a condition. Furthermore, Respondent's e-mail to the Unions Presidents on a Saturday

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12 Wilson's testimony that he asked Union official's, "who at the facility would represent them" is too ambiguous to constitute any notice that Respondent had any questions about the designation of Reaves.

afternoon, even after normal work hours, to inform them of bargaining sessions to begin on Monday, made Reaves appearance an impossibility. Such a result as suggested by Respondent was, in my opinion, never envisioned when Congress enacted the Statute.

In summary, the record disclosed that Respondent was aware of Reaves designation as Acting President to handle representational matter, that grievances were to be handled by the local stewards, and that the Unions had a Statutory right to designate Reaves to handle representational matters during the August 9-20, time frame. It also shows that Respondent refused to accept this designation and never contacted Reaves during the August period for negotiations. It further reveals that had Reaves been contacted, he was willing and able to negotiate matters which Respondent claims were so urgent that they had to be put on the bargaining table during a period of time when the Unions' Local Presidents were out of town on official business.

Finally, Respondent offered an Arbitration decision to attack the credibility of Reaves, who the undersigned has found to be credible in this matter. The arbitrator's decision makes an observation about the practice of these parties that coincides with my view of the parties labor relations attitudes, which are certainly unhealthy. Arbitrator Sam Jacobson stated as follows:

> In closing, I would be remiss in not noting my overall observations as to what appears to be a misdirection of energies by the Parties herein. Regardless of the technical expertise and the full utilization of all Federal resources available, in my view I feel effective labor relations to be only as good as the attitude and approach of the parties involved. Where posturing in all matters, including procedural ones, results in substantial delays in the process and resolution with continuous turmoil at [the] Activity, the winning or losing of a particular issue by a party is of no consequence. To best achieve the overall goal of both parties and the specific goals of each, both parties should reconsider their present approach towards negotiations and better utilize those basic building blocks of labor relations: cooperation, give and take and, where necessary, compromise.

I can only conclude, as did the arbitrator, that the approach to labor relations between these parties most certainly requires a lot of energy and Federal resources and, that each should seriously consider whether this is an efficient and effective way to operate.

Based on the record, the undersigned concludes that Respondent ignored the Unions designation of Reaves in this matter and sought to circumvent those designations by refusing to contact Reaves regarding negotiation issues, and by attempting to negotiate with local officials even though Respondent was repeatedly told that Reaves was the individual that Respondent needed to contact, in order to negotiate during the August 9-20 time frame. By so doing, Respondent not only refused to recognize the Unions designated representative, but also interjected itself into the Unions' internal affairs, that is, its right to select and appoint its own representative.

Accordingly, I conclude that the express language of the Master and Supplemental Agreement does not bar either Local R5-150 or Local R5-136 from designating Reaves as their representative for negotiations during the period August 9-20. Furthermore, it is concluded that Respondent and Local R5-150 and Local R5-136, had no practice with regard to designations when the Unions' Presidents were not available. Therefore, it is found that Respondent's failure and refusal to contact Reaves concerning negotiations during the time frame above constituted a refusal to recognize the Unions' designated representative in violation of section 7116(a)(1) and (5) of the Statute. Furthermore, it is found that Respondent's refusal to contact Reaves while it sought to negotiate with local officials, who were not authorized to negotiate between August 9-20, constituted interference with the unions internal affairs in violation to section 7116(a)(1) of the Statute.

Therefore, it is recommended that the Authority adopt the following Order:

ORDER

Pursuant to section 2423.41(c) of the Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute, the Department of Veterans Affairs, Ralph H. Johnson Medical Center, Charleston, South Carolina, shall:

1. Cease and desist from:

(a) Failing and refusing to recognize the designated representatives of the National Association of Government Employees, Local R5-136, SEIU, AFL-CIO, and the National Association of Government Employees, Local R5-150, SEIU, AFL-CIO, including national representatives from the National Association of Government Employees.

(b) In any like or related manner, interfering with, restraining, or coercing its employees in the exercise of their rights assured by the Federal Service Labor-Management Relations Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Recognize the designated representatives of the National Association of Government Employees, Local R5-136 SEIU, AFL-CIO, and the National Association of Government Employees, Local R5-150, SEIU, AFL-CIO, including national representatives from the National Association of Government Employees.

(b) Post at its facilities where bargaining unit employees represented by the National Association of Government Employees, Local R5-136, SEIU, AFL-CIO and the National Association of Government Employees, Local R5-150, SEIU, AFL-CIO, are located, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the Director, Veterans Affairs Medical Center, Ralph H. Johnson Medical Center, and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(c) Pursuant to section 2423.41(e) of the Authority's Rules and Regulations, notify the Regional Director, Boston Regional Office, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

Issued, Washington, DC, September 28, 2000.

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ELI NASH, JR.
Administrative Law Judge

NOTICE TO ALL EMPLOYEES

POSTED BY ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that the Department of Veterans Affairs, Ralph H. Johnson Medical Center, Charleston, South Carolina, has violated the Federal Service Labor-Management Relations Statute, and has ordered us to post and abide by this Notice.

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT fail and refuse to recognize the designated representatives of the National Association of Government Employees, Local R5-136, SEIU, AFL-CIO, and the National Association of Government Employees, Local R5-150, SEIU, AFL-CIO, including national representatives from the National Association of Government Employees.

WE WILL NOT in any like or related manner, interfere with, restrain, or coerce our employees in the exercise of their rights assured them by the Statute.

WE WILL recognize the designated representatives of the National Association of Government Employees, Local R5-136, SEIU, AFL-CIO, and the National Association of Government Employees, Local R5-150, SEIU, AFL-CIO, including national representatives from the National Association of Government Employees.

_____
(Respondent/Agency)

Dated:_____
By:_____
(Signature) (Warden)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

If employees have any questions concerning this Notice or compliance with its provisions, they may communicate directly with the Regional Director, Atlanta Regional Office, whose address is: Marquis Two Tower, 285 Peachtree Center Avenue, Suite 701, Atlanta, GA 30303, and whose telephone number is: (404)331-5212.

CERTIFICATE OF SERVICE

I hereby certify that copies of the **DECISION**, issued by ELI NASH, JR., Administrative Law Judge, in Case Nos. AT-CA-90904, 00003; 00004; 00005; 00006; 00007 & 00009, were sent to the following parties:

CERTIFIED MAIL & RETURN RECEIPT — **CERTIFIED NOS:**

Gary Lieberman, Esquire — P168-060-229
Federal Labor Relations Authority
99 Summer Street, Suite 1500
Boston, MA 02110

Donald Wilson, LRS — P168-060-230
VAMC, RHJMC, HRM (O5CIFO)
109 Bee Street
Charleston, SC 29401

George Reaves, Jr. — P168-060-231
National Representative, NAGE
36 Wine Street
Hampton, VA 23669

REGULAR MAIL:

Fletcher Truesdell, President
NAGE, Local R5-136
c/o VAMC, RHJMC
109 Bee Street
Charleston, SC 29401

Kate Smith, President
NAGE, Local R5-150
c/o VAMC, RHJMC
109 Bee Street
Charleston, SC 29401

_____
CATHERINE L. TURNER, LEGAL TECHNICIAN

DATED: SEPTEMBER 28, 2000
WASHINGTON, DC