

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Eighteenth Region

MURRAY'S INC.

and

UNITE HERE LOCAL 17

Case 18-CA-19354

**COMPLAINT AND NOTICE OF HEARING**

UNITE HERE Local 17, herein called the Union, has charged that Murray's, herein described by its correct name, Murray's Inc., and hereinafter called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Sec. 151, et seq., herein called the Act. Based thereon, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1.(a) The charge in this proceeding was filed by the Union on April 14, 2010, and a copy was served by first-class mail on Respondent on about that same date.

(b) The first amended charge in this proceeding was filed by the Union on May 13, 2010, and a copy was served by first-class mail on Respondent on about that same date.

2.(a) At all material times, Respondent, a Minnesota corporation with an office and place of business in Minneapolis, Minnesota, herein called Respondent's Minneapolis facility, has been engaged in the operation of a restaurant.

(b) During the fiscal year ending October 31, 2009, Respondent, in conducting its business operations described above in subparagraph (a), derived gross revenues in excess of \$500,000.

(c) During the fiscal year ending October 31, 2009, Respondent, in conducting its business operations described above in subparagraph (a), purchased and received at its Minneapolis, Minnesota facility goods valued in excess of \$50,000 from suppliers located within the State of Minnesota, which, in turn, purchased and received those goods directly from points located outside the State of Minnesota.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Tim Murray - President

Jill Murray - Manager

5. On about March 25, 2010, Respondent, by Manager Jill Murray, interfered with, restrained, and coerced employees in the exercise of Section 7 rights by engaging in the following acts and conduct, all of which occurred at Respondent's Minneapolis, Minnesota facility:

(a) Threatened to engage in surveillance of employees' protected concerted and union activities.

(b) Engaged in and/or created the impression of surveillance of Respondent's employees' protected concerted and union activities.

6. The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time bartenders, cooks, bakers, janitors, dishwashers, hosts/hostesses, buspersons, receivers/stockers and servers employed by Respondent at its Minneapolis, Minnesota facility; excluding all other employees, and guards and supervisors, as defined in the Act.

7. All at material times, the Union has been the designated exclusive collective-bargaining representative of the Unit and has been recognized as the representative by Respondent. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective from October 1, 2007 through September 30, 2009.

8. At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

9. At all material times, the Union has requested that Respondent recognize it as the exclusive collective-bargaining representative of the Unit and bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

10. Since about February 10, 2010, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit, in that:

(a) On about February 10, 2010, Respondent declared that the parties were at impasse in their negotiations.

(b) On about March 1, 2010, Respondent implemented its best and final offer, changing the terms and conditions of Unit employees' work by altering, among other things, wage rates, overtime, vacation benefits, insurance eligibility and premium, cost of employee meals and employee responsibility for cost of uniforms.

(c) The subjects set forth above in subparagraph (b) relate to wages, hours, and other terms and conditions of employment of the Unit, and are mandatory subjects for the purpose of collective bargaining.

(d) Respondent engaged in the conduct described above in subparagraphs (a) and (b) unilaterally and without having exhausted the collective-bargaining process and without having reached a bona fide impasse in negotiations.

11. By the conduct described above in paragraph 5, Respondent has been interfering with, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

12. By the conduct described above in paragraph 10, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act, in violation of Section 8(a)(1) and (5) of the Act.

13. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for Respondent's unfair labor practices described above in paragraph 10, the General Counsel seeks an order requiring

Respondent to make whole employees for any losses suffered because of Respondent's conduct described above in paragraph 10. The General Counsel seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

**PLEASE TAKE NOTICE** that on **July 15, 2010**, at **9:00 a.m.** at the **NLRB Hearing Room, Suite 790, 330 South Second Avenue, Minneapolis, Minnesota**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before June 11, 2010, or postmarked on or before June 10, 2010**. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, and then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless the Agency's E-Filing system is unable to receive documents for a continuous period of more than 2 hours

after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Sections 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

Dated at Minneapolis, Minnesota, this 28th day of May, 2010.

/s/ Marlin O. Osthus

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Marlin O. Osthus, Regional Director  
Eighteenth Region  
National Labor Relations Board  
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Attachments