

CHRISTIE PABARUE MORTENSEN AND YOUNG

A PROFESSIONAL CORPORATION
50 CONGRESS STREET
SUITE 430
BOSTON, MA 02109

TEL: 617.854.8315 ▶ FAX: 617.854.8311 ▶ WWW.CPMY.COM

JOHN D. FRUMER
617.854.8315
JDFRUMER@CPMY.COM

July 17, 2013

VIA HAND DELIVERY AND E-MAIL

James Glickman
US Dept. of Labor
JFK Fed. Bldg., Rm. E-375
15 Sudbury Street
Boston, Massachusetts 02203

Re: Acting Secretary of Labor, United States Dept. of Labor v North
Suffolk Mental Health Association, Inc. (Docket No. 11-2132)

Dear Jim:

Enclosed please find the Settlement Agreement as Executed by North Suffolk (including the two Notices) and North Suffolk's check no. 0217070 in the amount of \$7,000.00 (seven-thousand dollars) pursuant to the Settlement Agreement.

After you have this signed by SOL/OSHA and arrange for Kate Shea to sign, please send me a copy of the fully executed Settlement Agreement with Notices.

Please do not hesitate to contact me should you have any questions.

Very truly yours,


John D. Frumer

JDF:vaw

Enclosure

Cc:

Jackie K. Moore, CEO, PhD. (w/ enc. by email)

Brent Clark, Esq. (w/ enc. by email)

Katherine D. Shea, Esq. (w/ enc. by email)

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Acting Secretary of Labor, United States *
Department of Labor, *

Complainant, *

DOCKET NO. 11-2132

v. *

NORTH SUFFOLK MENTAL *
HEALTH ASSOCIATION, INC., *

REGION I

Respondent. *

INSP.# 315198424

SETTLEMENT AGREEMENT

Complainant and Respondent hereby stipulate and agree that:

(1) On July 19, 2011, Respondent was cited for an alleged violation of the Occupational Safety and Health Act of 1970, 29 USC 651, et seq., hereinafter referred to as the Act, and was issued a Notification of Proposed Penalty in the total amount of \$7,000.00.

(2) Respondent, an employer within the meaning of section 3(5) of the Act, duly filed with a representative of the Secretary of Labor a Notice of Intent to Contest the Citation and related penalty. This Notice was duly transmitted to the Occupational Safety and Health Review Commission and it is agreed that jurisdiction of this proceeding is conferred upon said Commission by section 10(c) of the Act.

(3) The Secretary of Labor has filed a Complaint herein stating with particularity the violation alleged, the penalty proposed and the issues in contest before the Review Commission and Respondent has filed an Answer and Affirmative Defenses denying the alleged violation.

(4) Complainant and Respondent have agreed to resolve this matter, without the necessity of further pleadings, as follows:

(A) Citation No. 1, Item No. 1 shall be affirmed as amended by the Complaint filed in this matter except that the alleged violation description is amended as follows:

“Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which were free of recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to the hazard of physical assault by clients.

(a) Location: 110 Ocean Avenue, Revere, MA: Employer’s Workplace Violence Prevention Program, and employer’s related training, did not adequately address the hazard of physical assault that may be posed by clients.”

(B) The Parties agree to disagree as to whether the violation existed at locations other than 110 Ocean Avenue, Revere, MA.

(C) Total penalties shall remain as issued in the amount of \$7,000.

(D) Respondent represents, and Complainant acknowledges, that Respondent had in place on January 20, 2011 certain programs and policies to address the potential hazard of workplace violence. Respondent further represents, and Complainant also acknowledges, that Respondent has implemented certain additional measures after January 20, 2011.

(E) Respondent shall, at a minimum, take the following measures across all of its operations, to the extent that it has not already done so, including all locations, activities, and programs, to afford protection to all of its employees from the hazard of physical assault by clients.

1. Implement a stand-alone written Workplace Violence Prevention Program for all the client-related service programs which includes the following elements:

- A Workplace Violence Policy Statement which sets forth responsibilities of all staff and a policy statement of zero tolerance for workplace violence;
- Hazard/Threat/Security assessment including a review of workplace violence information at Respondent's worksites, inspections of Respondent's worksites, and staff surveys;
- Implementation of workplace controls and prevention strategies that maximize safety and minimize the likelihood of assaultive behavior on staff, and a procedure for staff to communicate to clients that violence or threats of violence are not permitted or tolerated;
- Training and education of staff on the specifics of the North Suffolk Mental Health Association Workplace Violence Prevention Program;
- Incident reporting and investigation;
- A system for reporting safety concerns internally;
- Annual review of the program.

Respondent shall ensure staff involvement and solicit input from its staff in all appropriate aspects of its Workplace Violence Prevention Program. In addition, Respondent shall offer to include staff as full members of the Safety Committee.

2. Determine the behavioral history of new/transferred clients; utilize a system – such as log books – to identify clients with assaultive behavior (including threats of violence) and to communicate such pertinent information to potentially exposed staff; train staff to understand the system; and have a system for appropriately responding to clients exhibiting disruptive behavior.
3. Implement procedures that would communicate to potentially exposed staff any material incident of workplace violence or threatening behavior in a timely manner.
4. Ensure that training is sufficient to make all staff aware of the Workplace Violence Prevention Program, and how that Program can be readily accessed. Training shall be conducted at initial orientation and annually as refresher training. Training shall include, but not be limited to: (1) instructing staff that they may state clearly to clients, clients' relatives, and staff that violence or threats of violence are not permitted or tolerated; (2) training staff on effective methods for responding during a workplace violence incident; (3) training affected staff to recognize clients or others who are exhibiting aggressive behavior, and on techniques for timely de-escalating the behavior and what protective measures to take in cases where de-escalation is not sufficiently effective; (4) instructing staff about risk factors that cause or contribute to assaultive behaviors (including threats of violence); and (5) training staff to report all incidents of workplace violence, including assaults and threats of assaults, and instructing them that such reporting is mandatory.
5. Implement: (1) procedures for accounting for staff who end their shift away from one of Respondent's worksites; (2) a buddy system for at least second and third shifts as appropriate based upon an assessment of situational risk; and (3) a procedure for staff to request additional coverage when necessary, including, but not limited to, situations where a staff member communicates that he or she feels unsafe. Respondent shall document all such requests and maintain this documentation.
6. Provide staff with a reliable way to rapidly summon assistance when needed, such as electronic alarms, cell phones, and/or walkie-talkies, including providing these on the

Respondent's premises and when staff is alone with a client in the community and/or transporting a client in a vehicle.

7. Conduct annual risk assessment of Respondent's worksites to ensure exit routes are available and easily discernible.
8. Provide adequate lighting throughout Respondent's worksites at all times.

(F) The abatement date for all items of the Citation, including all abatement measures set forth in this Agreement, is 90 days from the date this Agreement is signed and dated by Complainant, unless otherwise specified above.

(G) The Citation and Notification of Penalty is deemed amended to include any and all abatement measures, including agreements as to actions to be taken by the employer, which are described in this Agreement. The measures described in this Agreement (including, without limitation, this Paragraph 4) are hereby incorporated as terms and abatement conditions of this Agreement. Complainant shall have full authority to monitor Respondent's compliance with the terms and abatement conditions of this Agreement. For a period of 60 days after Respondent's Certification of Abatement Respondent agrees that it shall permit Complainant to enter Respondent's Executive Offices located at 301 Broadway, Chelsea, MA 02150, without the need for a warrant, for purposes of verifying abatement as set forth in this Agreement.

(5) In view of the aforesaid, Respondent hereby withdraws its Notice of Contest and the Parties agree that the Citation and proposed penalties and the abatement measures and dates as amended by this Agreement shall be affirmed by the Review Commission and become the final Order of the Occupational Safety and Health Review Commission.

(6) Respondent certifies that the violations alleged have been abated or will be abated by the abatement dates herein. For each item in the Citation which is affirmed in this Agreement, Respondent will submit to the issuing area director an Abatement Certification as required by 29 CFR 1903.19(c). For each item such certification shall be submitted within 10 days of the abatement date described herein. Respondent also agrees to submit such abatement

documentation as is required by 29 CFR 1903.19(d). Respondent shall also provide to the issuing area director an interim report on or before 45 days from the date this Agreement is signed and dated by Complainant, as part of the Abatement Certification provided in this paragraph, which details the steps taken to date by Respondent pursuant to the abatement measures set forth in Paragraph 4(E) above, and any other abatement measures taken by Respondent.

Respondent agrees to comply with the Act.

(7) Each Party hereby agrees to bear its own fees and other expenses incurred by such Party in connection with any stage of this proceeding.

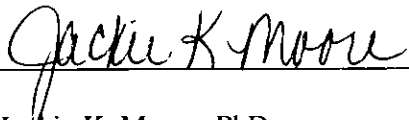
(8) Respondent certifies that this Agreement has been given to those of its employees who are members of SEIU Local 509, by serving a copy on SEIU Local 509's attorney Katherine D. Shea, Esquire, Pyle Rome Ehrenberg, 18 Tremont Street, Suite 500, Boston, MA 02108, by first class mail, on the date this Agreement is signed by Respondent, in accordance with Rules 7 and 100 of the Review Commission Rules of Procedure. It is hereby further certified by Respondent that this Agreement has been served on employees, by posting this Agreement in a place where the Citation is required to be posted, on the date this Agreement is signed by Respondent, in accordance with Rules 7 and 100 of the Review Commission's Rules of Procedure. This Agreement shall be posted until the date for completion of abatement set forth in Paragraph 4(F) above.

(9) In addition to posting this Agreement as set forth in Paragraph 8, Respondent agrees to provide all of its employees, and all new employees hired within the abatement term set forth in Paragraph 4(F) above, with a copy of the Notice attached hereto as Exhibit A, which will include at least one easily accessible means by which they can access the full Agreement. The

Notice is a summary description of this Agreement for informational purposes only and the Parties acknowledge that the terms of this Agreement control over the Notice.

(10) None of the foregoing agreements, statements, stipulations, and actions taken by Respondent shall be deemed an admission by Respondent of the allegations contained within the Citations, Notification of Penalties and the Complaint herein. The agreements, statements, stipulations, findings and actions taken herein are made for the purpose of settling this matter economically and amicably and they shall not be used for any purpose, except for proceedings and matters arising under the Occupational Safety and Health Act (29 USC 651, et seq.).

North Suffolk Mental Health Association, Inc.



Jackie K. Moore, PhD.
Chief Executive Officer

M. Patricia Smith
Solicitor of Labor

Michael D. Felsen
Regional Solicitor

James R. Glickman
Senior Trial Attorney
U.S. Department of Labor
Attorneys for Complainant

DATE 07/15/2013

U.S. Department of Labor
Office of the Solicitor
JFK Federal Building
Room E-375
Boston, MA 02203
TEL: (617) 565-2500
FAX: (617) 565-2142

DATE _____

Service Employees International Union Local 509:

Katherine D. Shea, Esq.
Pyle Rome Ehrenberg, P.C.
18 Tremont Street, Suite 500
Boston, MA 02108

DATE _____

NOTICE

TO THE EMPLOYEES
OF
NORTH SUFFOLK MENTAL HEALTH ASSOCIATION, INC.

The Secretary of Labor and your employer have entered into an Agreement to settle a certain proceeding now pending before the Occupational Safety and Health Review Commission. A copy of the Agreement is attached hereto.

A motion by the parties for approval of the Agreement is now pending. Any employee who has any objection to the Agreement may, on or before the expiration of ten (10) days from the date of this posting, send the same by mail to:

Honorable Dennis L. Phillips
Occupational Safety and Health Review Commission
One Lafayette Centre
1120 20th Street, N.W., Room 990
Washington, D.C. 20036-3419

Dated July 15, 2013.

Attachment

NOTICE

TO THE EMPLOYEES OF NORTH SUFFOLK MENTAL HEALTH ASSOCIATION, INC.

The Secretary of Labor (“Secretary”) and your employer, North Suffolk Mental Health Association, Inc. (“North Suffolk”), have entered into an agreement (“Agreement”) to settle an OSHA case pending before the Occupational Safety and Health Review Commission. The Agreement resolves allegations contained in an OSHA Citation and Complaint that were issued following an OSHA inspection at a North Suffolk workplace. North Suffolk denied OSHA’s allegations, and the Secretary and North Suffolk acknowledge that certain workplace violence prevention programs and policies were in place at the time of the incident which preceded the inspection, and that North Suffolk has implemented further measures since the incident. In addition to these measures, the Agreement provides that North Suffolk will augment its zero tolerance Workplace Violence Prevention Program, including but not limited to the following areas:

- Determination of, and communication regarding, client behavioral history;
- Communication of incidents of workplace violence to potentially exposed staff;
- Employee training in the Workplace Violence Prevention Program;
- Procedures for accounting for staff at the end of their shift away from a North Suffolk worksite and for staff to request additional coverage when necessary;
- Provide all staff with a reliable way to rapidly summon assistance when needed.

These measures apply to all North Suffolk programs, activities and workplaces.

This NOTICE is a summary description of the Agreement for informational purposes only and the Parties acknowledge that the terms of the Agreement control over this NOTICE. If you would like a copy of the full Agreement, or require additional information, please contact Anthony J. Morgera, Director of Human Resources, (amorgera@northsuffolk.org; 617-912-7917).

The Occupational Safety and Health Review Commission has approved the Agreement and it is expected that it will become effective as a Final Order of the Commission on or about _____, 2013.

Dated: 07/15, 2013

North Suffolk Mental Health Assoc. Inc.
301 Broadway
Chelsea, MA 02150

Citizens Bank
5-7017/2110

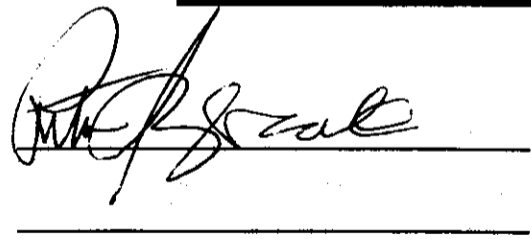
0217070

Date 7/15/2013

****\$7,000.00

SEVEN THOUSAND AND XX / 100 Dollars

Pay To DOL-OSHA
The OCCUPATIONAL SAFETY & HEALTH
Order Of SHATTUCK OFFICE CTR, STE 102
 ANDOVER, MA 01810



2 Signatures Required For Amounts Over \$10,000.



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