

## Samahan ng mga Manggagawa sa Hyatt (SAMASAH-NUWHRAIN-APL)

### BRIEFING PAPER ON HYATT LABOR DISPUTE

The Samahan ng mga Manggagawa sa Hyatt (SAMASAH) is an affiliate of the National Union of Workers in Hotel Restaurant and Allied Industries (NUWHRAIN-APL-IUF) and is the Certified Bargaining Agent of the rank and file employees of the Hotel. The present membership is at 214 all of whom are members of the UNION, from 260 in 1999.

Hotel Enterprises of the Philippines, Incorporated (HEPI) is the owner of Hyatt Regency Manila. The UNION was able to conclude 2 Collective Bargaining Agreements with the Hotel. The first one covered the period January 1, 1996 until December 31, 2000. The Second one was concluded on October 8, 2001 after ten (10) months of tedious, tensions filled and acrimonious negotiation highlighted by the filing of two (2) Notices of Strike by the UNION, the first one on refusal to bargain on economic issues while the second one was CBA deadlock both on economic and political issues. On the other hand, the Hotel filed 1 Notice of Lockout. Nevertheless, the CBA was signed last November 19, 2001. The affectivity of the second CBA started January 1, 2001 until December 2005.

Things never went smoothly again even after the CBA was just signed. The UNION faced numerous challenges and the Hotel wielding its sword under its so called management prerogatives, continuously and repeatedly violated workers rights under the constitution, the law and the Collective Bargaining Agreement which lead to this labor dispute:

Hereunder is the summary of events:

- December 19, 2001- Management offered special voluntary resignation/ retirement program.

15 members of the UNION availed, but their vacated position were replaced by extra, agency employees as well as practicum trainees instead of hiring regular employees.

Aside from the previous vacant positions, prior to the special retirement program, vacated regular positions were filled up by extra employees, agency and practicum students in clear violation of the CBA under Article VII Section 14 and Article IV Section 5 on Prohibition against Labor Contracting.

The agreed manning standard for the regular rank and file employees, as part of the economic package during the last CBA negotiation, is 248 for the 2001 - 2003. However, after the Hotel implemented the program, only 216 Rank and file employees remained.

- January 21, 2002- Management issued a memorandum to the UNION reducing the manning of the rank and file employees to only 150 from the agreed 248. (UNION opposed the said plan of the management) In clear violation of Article VII Section 13 of the CBA.

- January 22, 2002- management hired Agency employees to perform the duties of valet attendant a regular position under the CBU of the CBA which continues up to present.
- January 24, 2002 management called a meeting regarding their proposed manning. In that meeting they informed the UNION of their intention to contract out regular positions being performed by regular employees affecting about 60 regular rank and file employees who are all members of the UNION.

UNION manifested that such plan of the management is a clear violation of the law particularly Art. 248 letter c of the Labor Code.

- January 31, 2002- Permanent transfer of the two bar/pool attendant, who were subsequently replaced by agency workers, in violation of Article IV Section 5 of the CBA and Article 248 letter c of the Labor Code.
- February 2002, the issue on the manning standards of the Hotel heated up including the issue on the hiring by management of casuals and agency workers as well as the proliferation of practicum students in the hotel to augment vacated regular positions. The UNION wrote the management 3 letters to demand the replacement of vacated regular positions by hiring regular employees to complete the manning standards of 248 rank and file employees. Instead, the management opted to hire casuals, agency employees and beefed up its pool of practicum students to perform and augment the vacated regular positions, in clear violation of the CBA and the law. Again, this is happening up to this point in time.
- March 22, 2002- Management called a meeting with the UNION wherein the Management furnished the UNION a copy of their rightsizing plan. Said plan involves the lay-off of about 60 regular rank and file employees (all are members of the UNION) allegedly due to serious financial losses of the company, and thus, the need to declare redundancy of certain positions. The positions declared redundant and abolished will be out-sourced and contracted out by the management. In the said meeting, the UNION again questioned the management action, no presentation was made on the real financial condition of the company to show that the Hotel suffered serious business reverses), and besides the law on redundancy is very clear. UNION asked for another meeting for the said plan.
- April 5, 2002 – Notice of permanent lay-off due to abolition of position were given to 48 UNION members.

Likewise the Hotel wrote the UNION about the Hotel's downsizing program which shall take effect on the even date. Please take note that all the affected employees are members of the UNION and that their positions declared redundant by the Hotel will be out-source and contracted out in clear violation of the CBA and the law.

Also, on the same day, the Hotel notified the DOLE through Director Alex Maraan the notice of termination based on authorized cause.

- April 12, 2002, 10AM to 11AM the UNION President and the owner, Ms. Lisa Chan-Parpan held a meeting at her office where the UNION President discussed and informed the owner of their initiative and contribution on cost saving measures and also proposed to the owner numerous cost saving measures that are not yet undertaken by the Hotel (These measures are conditioned on management valid reasons and justifications that the Hotel is suffering from serious business reverses)

Despite the last ditch effort of the UNION to resolve the impasse by proposing cost saving measures which is not yet undertaken by the Hotel hereto attached as Annex "A", the Hotel stood firm in its position to lay-off the 48 regular workers permanently because as per Hotel, only by reducing payroll cost (which is centered solely to the regular rank and file employees) and to replace them with contractual, agency and casual employees is less costly and the only solution left.

- April 12, 2002 5:50 PM - UNION filed Notice of Strike before the National Conciliation and Mediation Board issues involved- UNFAIR LABOR PRACTICE
  - a) UNION busting
  - b) To contract out services or functions being performed by UNION members. Violation of Article 248 letter c of the Labor Code
- April 23, 2002- First conciliation meeting was held at the NCMB office at the Department of Labor and Employment under Conciliator Gil Caragayan. Management main reason why they will implement the redundancy and will terminate the 48 employees is because the Hotel is allegedly losing money, while the UNION asserts that the Hotel has yet to prove if the Hotel is suffering from serious financial or business reverses. Citing the fact that the Hotel earned P 35,252,055.00 in 1999 and P39,372,976.00 in 2000. There is no available Financial statement for the year 2001 of the Hotel.

The Management representatives claimed that they have exhausted all the cost saving measures that is why the Hotel's last measure is the permanent termination of 48 employees, but the UNION refuted it since a number of UNION proposals on the cost saving measures as outlined in the letter to the owner dated 6 April 2002 has not been implemented to date by the management such as the following:

1. Reduce the operating hours and days of the laundry department.
2. Reduce manning of the security force as well as the management staff too.
3. Full consumption of all earned vacation leaves (VL) as proposed by the Hotel.
4. Maximum 30 days VL without pay for all: managers, supervisors and rank and file.
5. Non-regular employees (casuals, extras and agency workers) shall be laid off first before any lay-off of regular employees covered by the Collective Bargaining Unit.
6. If worst comes to worst, 5 day work/week covering managerial, supervisory and rank and file employees.

All the above measures are conditioned on management valid reasons and justifications that the Hotel is indeed suffering from serious business reverses.

Conciliator Caragayan made the following proposals for the UNION and Management to consider,

- Proposal No. 1- The 48 employees affected will receive their separation pay (based on redundancy), without prejudice to the filing of a case questioning the validity of the termination of the 48 employees.
- Proposal No. 2- The 48 employees affected will receive their separation pay (based on redundancy) and to address the concern of the employees to get jobs at once, they will be hired as casuals pending the resolution of the case.
- Proposal No. 3 (Modification of Proposal No. 2) the 48 employees affected will receive their separation pay and they will be rehired as regular employees. Their starting salary will be based on the hiring rate, a big difference on their present salaries.

At this juncture, the legal counsel of the Hotel responded and asked if the UNION can guarantee that the 48 affected employees will sign their conformity on proposal No. 3. The UNION agreed to discuss it with the 48 employees affected.

Further, the UNION moved to suspend the termination of the 48 employees on May 5, 2002 pending the exploratory talks between the UNION and the Management.

The conciliator then moved for another re-setting of the hearing on May 2, 2002 at 2PM at the NCMB DOLE.

Thus, all the answers from both parties will be known on May 2, 2002.

- April 25, 2002 Strike Vote Conducted 194-YES to strike 3-NO. Results of the strike vote was submitted to DOLE on the same day at 6:13 PM.
- May 2, 2002 (Thursday) 6:14 PM end of 15 days cooling off period and 7 days strike ban.
- May 5, 2002 (Sunday) 48 regular employees were terminated.
- May 6, 2002. At least 60 contractual and agency workers (from three separate manning agencies) were hired to fill-up the vacated positions. The Union started daily pickets in front of Hotel.
- May 8, 2002. Scores were injured while 3 of the union officers were mauled when the Hotel's security guards attacked some 100 employees who were on their third day of peaceful picket protests in front of the plush hotel.
- May 10, 2002. At exactly 2:30 AM, 210 rank and file workers of the Hotel went on strike in response to the Hotel management's unjustified mass lay-off.