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Minister for Public Health, Social Development & Labour
Attn. Government Mediator, Mrs. Marcellina I.C. Loblack
Soualiga Road #1, Pond Island
Great Bay, St. Maarten

Marcellina.loblack@sintmaartengov.org

Your reference

Our reference

Date

MB/20-12-100

December 2, 2020

Re: Meeting request Government Mediator on collective negotiations SMCU and NV GEBE

Dear Mrs. Loblack,

With reference to your letter of November 30, 2020, please kindly inform me on the legal basis of your intervention as Government Mediator with the pending collective negotiations between Sint Maarten Communication Union ("SMCU") and NV GEBE. The letter of November 30, 2020 does not explicitly address that.

If the intended intervention as Government Mediator is aimed at initiating mediation in accordance with art. 3 National Ordinance on Labor Disputes 1946, please note that the collective negotiations between NV GEBE and Sint Maarten Communication Union ("SMCU") are still pending and that no disputes ex art. 3(1) National Ordinance on Labor Disputes 1946 have arisen. Any mandatory mediation by the Government Mediator in this regard, would therefore be premature and might (even) be unlawful.

If, however, your intended intervention as Government Mediator is not so much aimed at any formal mediation of disputes, but merely on the provision of assistance with the pending collective negotiations ex art. 14b National Ordinance on Labor Disputes 1946, NV GEBE respectfully notifies you that it is unfortunately not reasonably able (in Dutch: "*redelijkerwijze in staat*") to attend such meeting on such short notice. In that respect, please note that only recently, as per November 1, 2020, the undersigned have been appointed as temporary manager of NV GEBE in accordance with article 8:11 of the company's articles of incorporation. Seeing the nature of this appointment as temporarily manager, please note that my hands are tighter than those of a statutory director.

In fact, the actual formalization of collective arrangement(s) does not automatically fall within my standard authorities. Approximately two weeks ago, I had therefore informed the SMCU in accordance and assured them that the Supervisory Board of NV GEBE had confirmed that they will be reading into the matter and shall make sure the required legal and financial reviews are performed without any further delays. These legal and financial reviews are required by the Supervisory Board as to ensure NV GEBE can comply with any cost-increasing proposals despite the impact of the COVID-19 pandemic on its business and despite the instructions of the government to take costs-cutting measures of 12.5%.

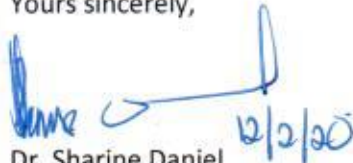
It was further confirmed that once these reviews have been made, SMCU will be informed on these results as soon as possible, and a new date for a meeting shall be scheduled in as to discuss the outcome of the reviews and to decide upon the best way forward and/or any next steps to be taken in the pending negotiations.

We understand and appreciate SMCU's perseverance to have this process further expedited, but please note that NV GEBE is simply not able to do act swifter than it does. NV GEBE cannot commit itself in any way without making sure it will indeed be able to comply with its commitments. This means, that even with the Government Mediator's assistance in the pending collective negotiations, NV GEBE is – at this moment in time - not reasonably able to attend the proposed meeting this Friday (10am). In fact, NV GEBE can only take part in such meeting constructively once the legal and financial reviews have been finalized and the results have been discussed with the Supervisory Board, which reviews are expected to be finalized and discussed in the first quarter of 2021

On behalf of NV GEBE I therefore kindly and respectfully request you to reschedule the meeting to the first quarter of 2021 as to allow the undersigned to be reasonably able to attend the requested meeting on behalf of NV GEBE.

In awaiting your reply,

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Sharine', followed by a large, stylized flourish or checkmark. To the right of the signature, the date '12/2/20' is handwritten in blue ink.

Dr. Sharine Daniel
Interim Manager