

**Accor Canada/Unite Here Local 75 & 261 relations
Summary report of fact-finding visit by Ron Oswald,
IUF general secretary conducted in
Toronto December 17-20, 2011**



The purpose of the visit to Toronto was two-fold:

1. To assess first-hand the recent history of Accor/UNITE HERE relations
2. To evaluate the level of threat to the spirit and letter of the 1995 IUF Accor Union Rights Agreement.

The visit consisted of a number of meetings with current or past Accor employees, UNITE HERE Local 75 representatives, Sid Ryan, President of the Ontario Federation of Labour, Peter Tabuns, Member of Ontario Provincial Parliament, legal counsel and Accor Canadian management.

Summary of findings

1. Consistency with the Accor/IUF Agreement on Trade Union Rights

The actions of management at stages in the organizing drives of Unite Here were clearly in contradiction with key commitments in the IUF/Accor agreement. This concerns notably that part that spells out the company's intention not to interfere in the free choice of its employees. The agreement clearly states,

"The Accor Group therefore undertakes not to oppose efforts to unionize its employees".

The distribution of a range of material in which the management at the Novotel Mississauga in writing as well as in direct contact with employees constantly advised employees to vote "**No!**" in what should be a free union election represents blatant and consistent breaches of the agreement.

In addition there is persuasive evidence that management adopted an aggressive and hostile attitude towards a number of employees who had openly made it clear they supported union representation. Cases are documented and include employees who had exemplary records with no blemish on their performance up to the time they became known as "union supporters". These actions would appear to be intended to do two things. Directly intimidate the individual employees and send a clear message to others that there are consequences to being supportive of union membership and recognition.

Potential Reputational damage to the Group and its Brands

Accor in Ontario faces the risk of becoming a “poster child” for employers seeking to deny union representation to a vulnerable and relatively poorly paid employee group many of whom are migrant workers living in precarious circumstances. Whilst Accor workers are paid above the legal minimum wage, with the exception of Novotel Toronto Centre workers they are systematically denied the right to union representation and thus the opportunity to raise their working and living standards.

The growing visibility of this situation is placing Accor at risk of becoming the focus for a widespread public campaign to defend the interests of low-income service workers that are increasingly recognized as being amongst the most vulnerable within Ontario's overall workforce. Political support for Accor workers is growing amongst local, provincial and federal politicians and this will clearly raise the public profile of the ongoing conflict. Senior labour leaders in Ontario are contemplating a campaign for labour law reform and are planning to put Accor at the centre by way of explanation of the need for such a campaign. The reputational damage to the company's Novotel brand may become significant and certainly cannot be in the best interests of the Group's business in Ontario or even beyond.

2. Ongoing Workplace Issues

There are clearly workplace issues that require remedial action many of which lie at the root of why workers have expressed majority support for union representation through their signing of union authorization cards over recent months. These include:

- Health and safety issues - notably housekeepers suffering various forms of repetitive, skeletal and muscular issues which do not appear to be taken seriously or accommodated in a sensible and humane manner by local hotel management. For example there seems to be little recognition by management of the need to reintegrate workers returning from a period of serious sick leave in a fair and humane way.
- lack of agreed or even any mechanisms to allow workers to re-integrate into the workforce following serious or long-term illness. There were at least two cases where I heard direct first-hand testimony from cancer sufferers who upon requesting initial work assignments at cleaning loads below the 16 room quota for housekeepers were given no option but to resume at their full quota. This was despite their being on serious medication and also being in ongoing pain as a result of surgery associated with their illness. In one case a concession was proposed to reduce the number of rooms but was accompanied by a proposal that their daily pay would be reduced to five hours from the normal eight.

Naturally workers in such cases feel poorly treated and disrespected and thus feel strongly the need to be able to exercise their right to representation to defend their interests.

3. Ongoing legal proceedings

The Ontario Labour Board has conducted a number of hearings on allegations notably at the Novotel Mississauga and the Novotel Ottawa. These issues have suffered from being dragged out over a lengthy period of time because the Labour Board schedule is full and allows only a limited number of hearing dates over a single case in any one period. Recognizing this the Labour Board has now unusually scheduled a four-week period in early February to seek to complete the hearings on the Novotel Mississauga.

There are strong indications that the Labour Board will find Accor in serious breach of Ontario labour law. Such a public outcome would of course be deeply embarrassing to a company that claims high standards of social responsibility.

In the event that the Labour Board determines that Accor's breaches of the labour laws of Ontario are serious enough to lead to the Labour Board ordering enforced union representation and recognition then Accor would find itself subject to a sanction that is extremely rarely imposed.

Any decision in the Mississauga case would strongly indicate the direction of future decisions in the outstanding cases in two other hotels, Toronto North York and the Novotel Ottawa. Should the company lose both cases at Mississauga and Novotel Ottawa Accor would become the first and only employer in the history of the province of Ontario to be ordered by the Labour Board to be to recognize the union in two places.

These pending cases already filed for some time are also apparently unknown to Canadian country management since in the meeting held with Mr Buitenhuis (see below) I was specifically informed that there were outstanding legal issues at only one Novotel hotel and that all other issues had been either withdrawn or somehow concluded.

4. Management's response

I appreciated the opportunity to meet with Mr Eric Buitenhuis. Though our meeting was relatively brief it took place in a cordial atmosphere. Whilst not expecting anything concrete or definitive coming from our meeting I was surprised at the relative lack of concern about what were undeniably breaches of the Accor/IUF International Agreement. Even leaving aside the credible allegations of discrimination of various forms against union supporters the written material circulated by Accor management in itself is clear evidence that the agreement was at best ignored and at worse consistently breached. Certainly management actively sought to oppose unionization in direct contradiction to the signed text in the Accor/IUF agreement.

Mr Buitenhuis seemed to agree that the Accor/IUF agreement was geographically relevant to Accor's operations in Canada but there seemed to be no explanation relating to the obvious and blatant breaches of it over a significant period of time in at least three of the four hotels.

I was also surprised by the company's apparent lack of concern in relation to reputational damage that Accor might face and also the fact that enormous energy

and resources (not only significant financial resources but resources in other forms) had been and continue to be required to maintain such a strong opposition to union representation.

I could only conclude that resources which presumably would normally be devoted to ensuring the business grew and constantly improved were being directed to purposes that clearly breached written commitments made to the IUF by the company and almost certainly would be found to be in breach of Ontario's labour laws.

I heard credible reports of ongoing "surveillance", of employees being followed and monitored during their breaks, of constant formal and informal sessions conducted by management representatives to "discuss" the union in a consistently negative way. None of this would normally be on a list of the responsibilities of management staff and I presume therefore that all of it took away time, effort, energy and resources from running the business to say nothing of the atmosphere that now inevitably exists between management and so many of the hotels' staff.

I was also surprised at the relative complacency about the future relations that might evolve at all Novotel properties. In view of the hostility shown to date to Local 75 and 261 as well many employees any future relations will require some investment to rebuild mutual respect. This will not be easy against the background of perceived injustice I heard consistently about amongst many workers and their representatives. I heard there was even overwhelming support at one unionized property for a formal and public boycott of that hotel. In my experience when workers support action that could directly negatively affect their employment and material interests it is a sign of deep discontent within a workforce and something that should greatly concern any responsible employer.

5. Conclusions and recommendations

There have been systematic breaches of the Accor/IUF Trade Union Rights Agreement over the past 2-3 years in both Toronto and Ottawa. The IUF will be insisting that this be rectified as a matter of urgency and that the spirit and letter of the agreement be fully respected going forward.

Substantial damage has been done to the working relationship that will at some stage necessarily emerge between Accor Canadian management and Unite Here in Canada. Some investment in restoring this relationship needs to be made by the company in the short-term.

Every effort should be made to find a rapid and voluntary agreement between Accor and Unite Here to avoid a significantly damaging set of findings at the Ontario Labour Board. Reputational damage to Accor that is likely to extend beyond Ontario will be significant if the Board reaches a particular strong negative conclusion in the Mississauga case. This can presumably be avoided if a voluntary agreement is reached in the coming weeks.

Elements of such an agreement would have to include

- restoration of full respect for the Accor/IUF Trade Union Rights Agreement;

- A clear expression of the practical application of the Accor/IUF Trade Union Rights Agreement through voluntary recognition by the company of employees wishes for union membership and representation, wishes already expressed in written form all of which has been independently verified;
- reversal of actions by the company that manifestly represent breaches of that agreement (in particular dismissals and disciplining of union supporters a list of whom can be provided by the IUF);
- establishment of a stable and constructive relationship between local and national management and Unite Here nationally as well as specifically with Local 75 and 261 in Ontario.

Inaction on the part of the Accor group should not be an option at this time in view of the growing and damaging reputational risk the company faces. The IUF remains willing and able to support the implementation of these conclusions in whatever way possible.

Geneva, January 4, 2012