

FACT SHEET: Sentosa 27 Nurses

1. The 26 nurses and 1 physical therapist (“Sentosa 27”) were all recruited from the Philippines through the Philippine-based Sentosa Recruitment Agency.
 - Sentosa Recruitment Agency is a single proprietorship under the name of Francis Luyun.
 - Upon information received, Francis Luyun also works in New York as the Director of International Recruitment for the New York-based Prompt Nursing Employment Agency, doing business as Sentosa Services.
 - Bent Philipson is the managing partner and chief operating officer of the various nursing home facilities that are the US principals/clients of Sentosa Recruitment Agency.
 - Sentosa Care, LLC is a healthcare management company owned and/or controlled by Bent Philipson.
2. **2004-2006:**
 - The nurses were sponsored as immigrant workers and arrived in the US in 2004, 2005 and early 2006.
 - The lone physical therapist was sponsored as a nonimmigrant H-1B worker.
3. **RN expectations as per contract :**
 - The nurses and PT were promised that they would be hired by and would work directly for the nursing home facility that sponsored each of them.
 - Each of the nurses/PT signed individual employment contracts with the particular nursing home facility that sponsored them.
 - The nurses were promised that they could immediately start working as registered nurses upon their arrival in New York as their limited permit applications had already been processed.
 - Among the nursing home facilities that sponsored the nurses and PT were Avalon Gardens, Woodmere Nursing & Rehab Center, Brookhaven Nursing & Rehab Center, Garden Care Center, New Surfside Nursing & Rehab Center, Split Rock Nursing & Rehab Center, Bayview Nursing & Rehab Center, Franklin Nursing & Rehab Center, Golden Gate Nursing & Rehab Center, and Townhouse Nursing & Rehab Center.
4. **What they found:**
 - Upon their arrival in New York, most of the nurses were surprised to find themselves working at nursing home facilities different from the ones that sponsored them. Worse, all of them discovered that they were made agency employees of Prompt Nursing Employment Agency, doing business as Sentosa Services.
 - Prompt/Sentosa Services was not a party to any of the employment contracts signed by any of the nurses/PT.
 - Prompt/Sentosa Services paid the salaries of the nurses/PT and provided most of the nurses with health insurance coverage. The worksite assignments were made by Prompt/Sentosa Services, which likewise regularly issued work memoranda to the nurses. The nurses/PT believed that they were employed by Prompt/Sentosa Services. Even their nurse supervisors told them they were agency nurses. Some were even issued ID cards clearly showing them as agency nurses.
 - Most of the nurses discovered upon their arrival that their limited permit applications had not even been submitted yet or had not been processed.
 - Because of the lack of a license/permit, which was not their fault, the nurses could not immediately start working. They were not immediately given work upon their arrival, contrary to what was promised them
 - Some nurses had to agree to work as clerks to support themselves. Prompt/Sentosa Services paid them between \$12 and \$14 per hour, until about two months later when their limited permits finally arrived.

- The paid working hours in a 40-hour work week were unilaterally reduced from 37.5 hours to 35 hours. Some nurses were not paid for actual hours worked; some were underpaid their hourly rates; and some were not paid night shift differentials and holiday pay. The nurses assigned at facilities located in Queens and in the Bronx were clearly not paid at least the DOL prevailing wage rates.

5. **What they did:**

- The nurses questioned the arrangement whereby they were not working directly for their petitioning employers. Luyun told them that the arrangement was acceptable as all the nursing home facilities were owned/controlled anyway by Philipson.
- Some nurses complained that they were not reimbursed for the licensure & certification expenses, and even the plane fare from Manila to New York which Sentosa Recruitment Agency promised to be reimbursed to them as soon as they arrived in New York. A few nurses were not given the promised two months of free housing accommodations.
- The actual green cards of some nurses and their family members were initially withheld by Philipson and Luyun. It was only when the nurses told Philipson and Luyun that they had inquired from the USCIS and that the USCIS told them that the green cards had already been sent to the Sentosa office that the green cards were eventually given to the nurses.
- The nurses likewise complained about the lack of proper and complete orientation or training and the disproportionate nurse-patient ratio that they felt would compromise the patient's care and safety.
- The nurses made known all their concerns and issues, either verbally by phone or formally by letters or e-mail messages, and met with their supervisors and Philipson and Luyun. However, their concerns were ignored and not satisfactorily addressed.
- One nurse called the attention of the **New York State Nurses Association** about her work conditions. Two nurses complained to the **Philippine Labor Attache's Office** in Washington DC and also to the **Consulate General in New York**, which referred them for legal advice and consultation with lawyer Felix Vinluan. It turned out that there were many nurses similarly-situated as those who complained to the Consulate.
- Before submitting their resignation letters, the nurses properly endorsed the care and custody of their patients to the incoming charge nurse. Contrary to earlier newspaper reports, the nurses did not walk out of their shifts and did not abandon their patients.
- The nurses also knew that Philipson and Sentosa could easily find their replacements as there were several Filipino immigrant nurses still waiting for assignments at the Sentosa staff houses in Surfside and in Woodmere, NY when they resigned. They knew that the facilities could easily secure nurse-replacements from Prompt/Sentosa Services and other staffing companies they were getting temporary staffing from.

6. **Their legal battle:**

- After having been interviewed by the Vinluan Law Office, the nurses were advised that they have ground to file discrimination charges against the nursing home facilities that sponsored them but did not provide them with direct-hire employment.
- Vinluan advised them of their rights as injured parties to breached employment agreements, as well as their rights as immigrant workers. Vinluan advised the nurses that the Sentosa group of companies engaged in fraud

and misrepresentation in the immigration process. Instead of being directly hired by their petitioning employers, as per the immigration process and in consonance with their respective employment agreements, the nurses were made by Philipson and Luyun as agency employees of Prompt/Sentosa Services.

- On **April 6, 2006**, Vinluan lodged the nurses' discrimination charges against Philipson and his group of companies before the Office of Special Counsel for Immigration Related Unfair Employment Practices under the Department of Justice in Washington DC.
- Shortly thereafter, the nurses submitted their resignation letters to Sentosa, Philipson and the nursing home facilities they were made to work at.
- Philipson retaliated against the nurses by filing a civil case (breach of contract) against them, and even impleaded Atty. Vinluan as party defendant for alleged tortious interference of contracts.
- **May 4, 2006:** The nurses, through counsel, also filed administrative cases against the Philippine-based Sentosa Recruitment Agency, for violations of Philippine recruitment rules and regulations before the Philippine Overseas Employment Administration (POEA).
- **May 24, 2006:** POEA (in the Philippines) administrator signed a preventive suspension order against Sentosa Recruitment Agency.
- **June 8, 2006:** The suspension order was surprisingly lifted less than two weeks later as New York Senator Schumer interceded in behalf of Sentosa by writing POEA Administrator Baldoz, Labor Secretary Sto. Tomas, and New York Consul General Rebong. Upon information received, the nurses believe that Philipson is a big political contributor of Senator Schumer. Then Presidential Chief of Staff Mike Defensor was also reported to have called up Administrator Baldoz and Con-Gen Rebong a day before Baldoz signed the order lifting the preventive suspension order.
- **July 5, 2006:** The Supreme Court Justice hearing the breach of contract case **denied Sentosa's application for preliminary injunction as the plaintiffs (Sentosa) failed to establish "their likelihood of prevailing on the merits of the breach of contract claim"**. The civil case is ongoing, as depositions are presently being undertaken.
- Further, Philipson, his web of companies and their politically-connected lawyers filed administrative cases against the nurses before the **New York State Education Department's Office of Professional Discipline (NYSED's OPD)**. They alleged that the nurses abandoned their patients when they resigned.
- **September 11, 2006:** The POEA denied the nurses' motion to reissue the preventive suspension order as no other cases of similar nature had allegedly been filed against Sentosa Recruitment Agency.
- **September 13, 2006:** After a couple of administrative hearings, the NYSED's Office of Professional Discipline closed the administrative complaints against the nurses. Atty. Vinluan received an e-mail message by the Director of Investigations of NYSED's OPD informing him that the **administrative cases were closed, and that there was no finding of patient abandonment and that there was no good moral character issue that would prohibit the nurse-permittees from securing their limited permits or nursing licenses.**
- **January 5, 2007:** The Supreme Court Justice bearing the civil cases, on a motion to reargue, affirmed his July 5, 2006 Order, and denied Sentosa's application for preliminary injunction on the ground that **"there was no showing by plaintiffs of a clear likelihood of success on the merits vis-à-vis their claim against the defendants"**.

- **March 22, 2007:** Ten nurses (Elmer Jacinto, Juliet Anilao, Harriet Avila, Mark Dela Cruz, Claudine Gamiao, Jennifer Lampa, Rizza Maulion, James Millena, Ma Theresa Ramos, and Ranier Sichon), who used to work at Avalon Gardens Rehabilitation and Healthcare Center in Smithtown, NY, were indicted for conspiracy and endangering the welfare of children and disabled persons. The nurses believe that Philipson and his lawyers used again their political connections to make the District Attorney's Office in Suffolk County file the criminal charges against the ten nurses. The nurses' lawyer (Vinluan) was also indicted for allegedly conspiring with the nurses.
- **May 22, 2007:** The ten nurses and Vinluan, through their counsels, filed their motions to dismiss the indictments.
- **August 31, 2007:** The US Department of Justice's Office of Special Counsel dismissed the nurses' discrimination charges. This dismissal was however moot and academic because as early as **May 14 and 15, 2007**, the nurses had already filed their complaints before the Office of the Chief Administrative Hearing Officer (OCAHO). The OCAHO Judge has taken jurisdiction over the discrimination complaints. At present, the parties are at the discovery stage before trial.
- **September 4, 2007:** The nurses' complaints against Sentosa Recruitment Agency were dismissed by the POEA Administrator on the ground that there were allegedly no regulation on overseas employment that was violated by the respondents. The POEA made a finding of fact that there was allegedly a Recruitment Agreement between Sentosa Recruitment Agency and Sentosa Care LLC. The nurses timely filed an appeal to the Secretary of Labor, arguing that the records bear no such agreement between Sentosa Recruitment Agency and Sentosa Care LLC, and that in fact, POEA's records clearly prove that the nurses individually entered into employment agreements with a particular nursing home facility, and not with Sentosa Care LLC. Sentosa Care LLC is not an accredited principal of Sentosa Recruitment Agency.
- **September 28, 2007:** The Supreme Court Justice hearing the criminal cases denied the 10 nurses and Vinluan's motions to dismiss the indictments.
- **October 29, 2007:** The Justice in the criminal cases reset the hearing to **December 17**, when he would inquire if the 10 nurses understood that they had the right to have individual counsels, and if they had decided to continue being represented by just one counsel (Atty. James Drucker). Trial is tentatively scheduled to begin on **January 28, 2008**.
- **November 15, 2007.** A third batch of complaints was filed before the POEA against Sentosa Recruitment Agency. The nurse-complainants request the POEA Administrator to suspend Sentosa Recruitment Agency's license. Their request, as well as the request of the second batch of complainants (filed on November 24, 2006) for the issuance of the preventive suspension order remain not acted upon by the POEA. The second and third batches of complainants remind the POEA of its earlier September 11, 2006 Order, that here they are, making the same complaints against Sentosa Recruitment Agency.
- **November 27, 2007.** The Philippine Senate's Committee on Labor and Employment began its investigation, in aid of legislation, into the recruitment activities of Sentosa Recruitment Agency. SRA's Luyun, POEA's Baldoz and Mike Defensor did not show up.
- **November 27, 2007:** The Justice for Sentosa 27+ Campaign enjoins the people to request the Governor of New York to appoint an independent Special Prosecutor to handle the criminal cases so that the Avalon 11 (10 nurses and Vinluan) will have a fair and objective trial. This call is premised on the defendants' belief that their

indictments came about because Sentosa's owners and lawyers used their political clout with the Suffolk County District Attorney. As reported in Newsday's investigative report, Sentosa's owners and lawyers sought a private audience with the Suffolk County District Attorney and requested him to investigate the nurses. The District Attorney had previously received political campaign contributions from Sentosa's lawyers. Sentosa's owners are big political contributors to fund-raising activities chaired by their influential lawyers.

- **December 5, 2007:** The Philippine House of Representatives' Committee on Labor and Employment began its own investigation in aid of legislation into the recruitment activities of Sentosa Recruitment Agency. SRA's Luyun, POEA's Baldoz and Mike Defensor failed to appear.
- **December 17, 2007:** The Avalon 10 nurses testified in open court that they understood their right to have their own separate defense counsel and that there could be potential conflicts of interest should they have common or joint legal representation. They waived their right to secure separate counsels, and decided to have James Drucker continue as their joint defense counsel.