From:	Zayas, Christian D.
To:	harriet.lipkin@dlapiper.com; ebm@msh.law; kweber@msh.law
Subject:	Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino / Case 28-RC-208266
Date:	Tuesday, November 21, 2017 4:04:20 PM
Attachments:	image001.png ORD.28-RC-208266.Rescheduling Hearing on objections.pdf

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Ladies and Gentlemen,

Please see attached.

V/R

Christian D. Zayas
NATIONAL LABOR RELATIONS BOARD
Secretary to the Assistant Regional Director
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004-3099
(602)416-4772

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

STATION GVR ACQUISITION, LLC D/B/A
GREEN VALLEY RANCH RESORT SPA CASINO

Employer

and **Case 28-RC-208266**

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS AFFILIATED WITH UNITE HERE INTERNATIONAL UNION

Petitioner

ORDER RESHCEDULING HEARING

On November 17, 2017, an Order Directing Hearing and Notice of Hearing on Objections issued scheduling a hearing in this matter for November 30, 2017. On November 17, 2017, counsel for the Employer requested that the hearing be rescheduled to commence on December 7, 2017. Counsel for the Petitioner opposes this request. Due to administrative convenience, and for good cause shown,

IT IS ORDERED that the hearing in this matter currently scheduled for November 17, 2017, be, and the same is, rescheduled to December 5, 2017 and, shall continue on consecutive days thereafter until concluded, at the same time and location previously noticed.

No further rescheduling requests or postponements will be granted.

Dated at Phoenix, Arizona, this 21st day of November 2017

Cornele A. Overstreet, Regional Director

From:	(b) (6), (b) (7)(C)
To:	Overstreet, Cornele; Higley, Nathan A.; Harriet.Lipkin@dlapiper.com; Kevin.Harlow@dlapiper.com
Cc:	Eric Myers
Subject:	Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino / Case 28-RC-208266 [IWOV-Legal.FID323682]
Date:	Thursday, November 30, 2017 8:55:27 PM
Attachments:	LJEB LV Petition to Revoke Subpoenas.pdf

Dear All,

Please see attached for a copy of Local Joint Executive Board of Las Vegas' petition to revoke subpoenas filed today with the NLRB regarding the above-referenced case.

Regards,

(b) (6), (b) (7)

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) *Eric B. Myers, John J. Davis, Jr., and Yonina Alexander*

McCRACKEN, STEMERMAN & HOLSBERRY, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
Phone: (415) 597-7200 (b) (6), (b) (7)(C)
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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

STATION GVR ACQUISITION, LLC
d/b/a GREEN VALLEY RANCH
RESORT SPA CASINO, **Case No. 28-RC-208266**

Respondent,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, A/W UNITE HERE
INTERNATIONAL UNION,

Petitioner.

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS' PETITION TO REVOKE EMPLOYER'S SUBPOENAS

B-1-Z1SXBX

A-1-Z1YAA1

(b) (6), (b) (7)(C)

A-1-Z1YQH3

(b) (6), (b) (7)(C)

Pursuant to Section 102.31(b) of the Rules and Regulations of the National Labor Relations Board, Petitioner Local Joint Executive Board of Las Vegas (the "Petitioner") requests that the Regional Director or the Hearing Officer revoke or otherwise limit Subpoena Numbers B-1-Z1SXBX, A-1-Z1YAA1, (b) (6), (b) (7)(C) [redacted] (b) (6), (b) (7)(C) A-1-Z1YQH3, (b) (6), (b) (7)(C) [redacted] (b) (6), (b) (7)(C) These subpoenas should be revoked for various reasons, including the fact that they were improperly "served" by mail upon Petitioner's counsel only; they seek documents that are not tangentially related to these proceedings; and they seek internal union documents containing Section 7-protected communications. The occasion of an objections hearing does not give an employer license to conduct a general dragnet into a union's files. That is exactly what the Employer seeks to do here.

INTRODUCTION

On October 19, 2017, the Petitioner filed the petition in case 28-RC-208266 and a representation election was conducted on November 8 and 9, 2017. The critical period for objectionable conduct was limited to the 21 days between October 19 and November 9, 2017. The Petitioner won the election by the sizeable margin of 571 to 156.

On November 14, 2017, the Company filed objections. It makes twelve discrete allegations. All but one arise out of conduct that allegedly occurred during the voting period and around the areas of the polls. One of them (Objection Number 1) alleges conduct earlier during the critical period.

On November 17, 2017, the Regional Director issued an order stating that he had "concluded that the evidence submitted by the Employer in support of its objections

could be grounds for overturning the election if introduced at a hearing." Order Directing Hearing on Objections and Notice of Hearing, issued November 17, 2017, p. 5 (copy attached as Appendix A).

In asserted support for the objections, the Employer has attempted to serve a subpoena *duces tecum* ("S.D.T.") requiring the production of a wide range of documents and other things as well as several subpoenas *ad testificandum* requiring the testimony of current and former individuals who worked for or in conjunction with the Culinary Workers Union.[1] These subpoenas were sent by mail to Petitioner's counsel and received on November 27, 2017. *See* Appendix B. They were not otherwise served in accordance with Board regulations. *See* Rules and Regulations of the National Labor Relations Board, Section 102.4(b).[2]

The S.D.T. consists of ten requests seeking a broad range of documents, few of which are even arguably related to the gravamen of the objections. Three of the requests seek documents pertaining to customer, client and investor communications relating to Stations Casinos-affiliated entities reaching back to January 1, 2015. There are at least

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[1] The Petitioner consist of the Culinary Workers Union Local 226 and the Bartenders Union Local 165.

[2] Because the subpoenas were not properly served, there is no timeline for filing this petition to revoke. However, had service been proper, this motion to revoke would be timely because it is filed within five business days of the date that the subpoena was received by Petitioner's Counsel by certified mail. *See* Rules and Regulations of the National Labor Relations Board, Section 102.31(b).

22 such businesses covered by the subpoena.[3] The Employer can offer no pretense of an argument that these documents are even tangentially related to objectionable conduct that allegedly occurred at Green Valley Ranch during the critical period. The other S.D.T. requests—while at least having to do with the election at Green Valley Ranch—amount to a general dragnet of the Petitioner's records and communications. These are likewise largely unrelated to the discrete allegations set out in the objections and they seek privileged communications. They should be tightly narrowed where not revoked altogether.

The Employer has also sought to subpoena current and former employees of the Culinary Workers Union to provide testimony. These persons had no involvement in any of the allegedly objectionable conduct, and several of them no longer work in conjunction with the Petitioner at all. The Employer seeks effectively to depose them regarding their past conduct related to customer and investor communications for purposes clearly unrelated to this proceeding.

The Union shall first review the subpoenas and describe the individuals whose testimony the Employer seeks to compel. Next, the Union shall explain why the

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[3] The following casinos are owned and operated by Station Casinos: Red Rock, Green Valley Ranch, Palms Casino Resort, Palace Station, Boulder Station, Texas Station, Sunset Station, Santa Fe Station, Fiesta Rancho, Fiesta Henderson, Wild Wild West, Wildfire Rancho, Wildfire Boulder, Wildfire Sunset, Wildfire Lake Mead, Wildfire Valley View, Wildfire Anthem, Barley's (50% owned), The Greens (50% owned), and Wildfire Lanes (50% owned). Two more casinos are operated by Operated by Station Casinos under a management agreement: Gun Lake Casino (Michigan), and Graton Resort & Casino (California).

subpoenas should be revoked. First, they were not properly served. Second, to the extent that the Regional Director or Hearing Officer should rule that the service was somehow proper, the subpoenas should be revoked or substantially narrowed based upon the considerations set out herein.

Finally, the Petitioner states that in objecting to the Employer's S.T.D. requests, the Petitioner does not thereby admit or imply that there are any responsive documents in existence. The Petitioner preserves all objections relating to documents covered by the attorney-client privilege and attorney work-product doctrine.

OVERVIEW OF THE SUBPOENAS AND THE SUBPOENAED PERSONS

The subpoenas that the Employer has served or attempted to serve are directed at the following persons:

1. Subpoena (b) (6), (b) (7)(C) is directed at (b) (6), (b) (7)(C) "). (b) (6), (b) (7)(C) worked in the past as an (b) (6), (b) (7)(C) with the Culinary Workers Union customer outreach program. (b) (6), (was not working for the Culinary Workers Union during the critical period and (b) (6), had no involvement with any of the conduct alleged to be objectionable. A copy of Subpoena (b) (6), (b) (7)(C) is attached hereto as Appendix C.

2. Subpoena A-1-Z1Z1NV is directed at (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) worked in the past as a (b) (6), (b) (7)(C) with the Culinary Workers Union's customer outreach program. (b) (6), (was not working in association with the Culinary Workers Union during the critical period and (b) (6), had no involvement with any of the conduct alleged to be objectionable. A copy of Subpoena (b) (6), (b) (7)(C) is attached

hereto as Appendix D.

3. Subpoena (b) (6), (b) (7)(C) is directed at (b) (6), (b) (7)(C) (b) (6), (b) is the Culinary Workers Union's (b) (6), (b) (7)(C) . (b) (6), (b) had no involvement with any of the conduct alleged to be objectionable. A copy of Subpoena (b) (6), (b) (7)(C) is attached hereto as Appendix E.

4. Subpoena A-1-Z1YQH3 is directed at Kevin Kline ("Kline"). Kline is UNITE HERE Gaming Division Director and UNITE HERE International Union vice president. Kline had no involvement with any of the conduct alleged to be objectionable. However, he would appear upon a proper showing of the relevancy of his testimony and further upon a showing that he been properly subpoenaed. As stated below, Kline was not properly subpoenaed. A copy of Subpoena A-1- Z1YQH3 is attached hereto as Appendix F.

5. Subpoena (b) (6), (b) (7)(C) is directed at (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) worked in the past as an (b) (6), (b) (7)(C) with the Culinary Workers Union's customer outreach program. Since July 2017, (b) (6), (b) has worked as an (b) (6), (b) (7)(C) with the Culinary Workers Union's research department. (b) (6), (b) (7 had no involvement with any of the conduct alleged to be objectionable. A copy of Subpoena (b) (6), (b) (7)(C) is attached hereto as Appendix G.

6. Subpoena (b) (6), (b) (7)(C) is directed at (b) (6), (b) (7)(C) "). (b) (6), (b) (7)(C) is a member of the Culinary Workers Union who works at a unionized property. (b) (6), (was previously on a leave of absence from (b) (6), (regular job working with the Union's customer outreach program. (b) (6), (was not working for the Culinary Workers

Union during the critical period and he had no involvement with any of the conduct alleged to be objectionable. A copy of Subpoena (b) (6), (b) (7)(C) is attached hereto as Appendix H.

7. Subpoena (b) (6), (b) (7)(C) is directed at (b) (6), (b) (7)(C) [redacted]"). (b) (6), (b) (7)(C) worked as an (b) (6), (b) (7)(C) in the past for the Culinary Workers Union customer outreach program. (b) (6), (b) was not working with the Culinary Workers Union during the critical period and (b) (6), (b) had no involvement with any of the conduct alleged to be objectionable. A copy of Subpoena (b) (6), (b) (7)(C) is attached hereto as Appendix I.

8. Subpoena (b) (6), (b) (7)(C) is directed at (b) (6), (b) (7)(C) [redacted]"). (b) (6), (b) (7)(C) presently works with the Culinary Workers Union's customer outreach program. (b) (6), (b) had no involvement with any of the conduct alleged to be objectionable. A copy of Subpoena (b) (6), (b) (7)(C) is attached hereto as Appendix J.

9. Subpoena A-1-Z1YAA1 is directed at the Petitioner's Custodian of Records. A copy of Subpoena A-1- Z1YAA1 is attached hereto as Appendix K.

10. Subpoena *Duces Tecum* B-1-Z1SXBX (the "S.D.T.") is directed at the Petitioner's Custodian of Records and seeks ten categories of documents. A copy of S.D.T. B-1-Z1SXBX is attached hereto as Appendix L.

ARGUMENT

I. The Subpoenas should be revoked because they were improperly served.

A. All of the subpoena were improperly served because they were served upon Petitioner's counsel in disregard for the NLRB's rules.

The Employer "served" the subpoena by sending them via certified mail to Eric B.

Myers (the undersigned) at the law office of McCracken, Stemerman & Holsberry, LLP , in San Francisco, California. They were received on November 27, 2017.

Service by mail upon a party's attorney does not constitute proper service under the Rules and Regulations of the National Labor Relations Board. Section 102.4(b) states:

> (b) Service of subpoenas. Subpoenas must be served upon the recipient personally, by registered or certified mail, by leaving a copy at the principal office or place of business of the person required to be served, by private delivery service, or by any other method of service authorized by law.

Rules and Regulations of the National Labor Relations Board, § 102.4(b). A separate section of Section 102.4 requires separate service of a *copy* of a subpoena that was served upon a person or organization to that person or organization's legal counsel:

> (e) Service upon representatives of parties. Whenever these Rules require or permit the service of pleadings or other papers upon a party, *a copy* must be served on any attorney or other representative of the party who has entered a written appearance in the proceeding on behalf of the party.

Id. § 102.4(e) (emphasis added). In like fashion, the NLRB Casehandling Manual—Part II--Representation Proceedings states:

11778 Service of Subpoenas

> Sec. 102.113(c), Rules and Regulations [the predecessor to Section 102.4(b)] requires that subpoenas be served personally, by registered or certified mail, by telegraph, or by delivery at the principal office or business address of the person being served. Also see Sec. 11(4) of the Act. Absent unusual circumstances, such service should be by certified mail or hand delivery with a *copy* served by regular mail, hand delivery, or by facsimile on any attorney or other representative of the party or witness.

NLRB Casehandling Manual—Part II—Representation Proceedings, § 11778 (emphasis

added).

The Employer's delivery of the subpoenas to the undersigned does not constitute service of the subpoena upon the Petitioner, and merely complying with the requirement to furnish *copies* of papers to counsel does not serve as a substitute for actual service. In order to dispel any misconception on that count, the undersigned immediately notified Employer counsel that he was not authorized to accept service of the subpoenas. A copy of the letter notifying counsel of such is attached as Appendix M. To counsel's knowledge, the Employer has not attempted to correct the service.

Accordingly, all of the subpoenas should be revoked for the Employer's failure to effectuate proper service.

B. Several subpoenas were improperly served for the additional reason that the persons served no longer work in any capacity in conjunction with the Culinary Workers Union.

Even if the rules requiring proper service allowed the Employer to effectuate service of a subpoena upon an attorney, (b) (6), (b) (7)(C) [redacted] no longer perform work on behalf of the Culinary Workers Union and they not represented in any capacity by this law firm. If the Employer seeks to compel their appearance for a legitimate purpose, it must serve them in accordance with the NLRB's rules. As their place of business is no longer the Culinary Workers Union, service cannot be effectuated by delivering the subpoena there. It cannot in any case be effectuated by delivery of the subpoena to this law firm.

II. The subpoenas should be revoked or substantially narrowed because they seek documents to which the Employer is not entitled.

To the extent that the subpoenas are not revoked because of the Employer's disregard for the service rules (or to the extent the Employer is permitted to correct its service defects), the subpoena should be revoked because they are improper on numerous substantive grounds.

The purpose of this hearing is for the Employer to present the evidence that it presented before the Regional Director in support of its objections. *See* Order Directing Hearing on Objections and Notice of Hearing, p. 5. The Employer does not need to subpoena *any* evidence from the Petitioner in order to accomplish that. Filing objections does not provide the Employer with a license to fish for evidence that might support them. It is required to have its evidence in hand.

In the event that the Employer is afforded latitude to engage in discovery beyond the evidence described in its offer of proof, that discovery should be tightly controlled. For example, the Employer should be required in instances identified below to establish *prima facie* evidence of objectionable conduct before being allowed access to the Petitioner's records. Even then, discovery should not be allowed into communications between employees and the Petitioner owing to the strong Section 7 interests at play.

A substantial portion of the Employer's discovery is aimed at gaining access to persons and documents that are wholly unrelated to the objections, or even to the general subject of the representation election. The Employer obviously seeks to use the Board's subpoena authority for ulterior purposes. Because this line of discovery encompasses all

or most of the persons subpoenaed, as well as a substantial portion of the documents subpoenaed, the Petitioner will start its analysis there.

A. The witness subpoenas and S.D.T. Requests Number 8, 9 and 10 seeking discovery of customer communications should be revoked.

With the exception of Kline, none of the individuals whom the Employer has attempted to subpoena had any involvement with the organizing campaign at Green Valley Ranch. They were involved only in the Culinary Workers Union's customer outreach efforts, as well as research issues in support of these efforts. Several of the subpoenaed individuals stopped engaging in such activities well before the filing of the petition. None of them engaged in any work interacting with employees at the workplace at any time, much less during the critical period. That work was performed exclusively by the Petitioner's organizers, none of whom the Employer has sought to subpoena.

If all the Employer had done was to subpoena these individuals, one might charitably conclude that the Employer was merely ignorant of the Petitioner's staffing structure by seeking to compel the attendance of persons having nothing to do with the election on or the alleged objections. But S.D.T. requests numbers 8, 9, and 10 make clear that the Employer is not confused about what it is doing. It is unabashedly using the Board's subpoena authority to pursue goals that are entirely unrelated to these proceedings.

S.D.T. Requests 8, 9 and 10 demand the following:

8. A copy of all correspondence and documents concerning any communication between the Union and customers or potential customers, between January 1, 2015 and the present, relating to any hotel or casino owned, operated by and/or

affiliated with Station Casinos, including but not limited to flyers, electronic communications, Web postings, advertisements, and video or audio recordings.

9. A copy of all correspondence and documents concerning any communication, between January 1, 2015 and the present, between the Union and individuals and/or entities doing business with any hotel or casino owned, operated by and/or affiliated with Station Casinos or any entity affiliated with Station Casinos, including but not limited to flyers, electronic communications, Web postings, advertisements, and video or audio recordings.

10. A copy of all correspondence and documents concerning any communication, between January 1, 2015 and the present, regarding doing business with, patronizing, investing in and/or refraining from doing business with any hotel or casino owned, operated by and/or affiliated with Station Casinos or any entity affiliated with Station Casinos, including but not limited to flyers, electronic communications, Web postings, advertisements, and video or audio recordings.

These demands and the related subpoena requiring the attendance of persons involved with third-party communications clearly have nothing to do with any alleged objectionable conduct during the critical period. First, the objections themselves do not even obliquely refer to any purportedly objectionable conduct arising from any customer or client communications. Second, even if they had, such objections would have been frivolous on their face because such conduct occurring over the course of three years cannot form the basis of a challenge to conduct occurring during the critical period.

Accordingly, the following subpoenas should be revoked:

Subpoena Duces Tecum B-1-Z1SXBX, items 8, 9, and 10.

Subpoena (b) (6), (b) (7)(C) directed at (b) (6), (b) (7)(C).

Subpoena (b) (6), (b) (7)(C) directed at (b) (6), (b) (7)(C).

Subpoena (b) (6), (b) (7)(C) directed at (b) (6), (b) (7)(C)

Subpoena (b) (6), (b) (7)(C) directed at (b) (6), (b) (7)(C) .

Subpoena (b) (6), (b) (7)(C) directed at (b) (6), (b) (7)(C) .

Subpoena (b) (6), (b) (7)(C) directed at (b) (6), (b) (7)(C) .

Subpoena (b) (6), (b) (7)(C) directed at (b) (6), (b) (7)(C)

B. S.D.T. Requests 1 through 7 should be revoked or severely narrowed.

S.D.T. requests number 1 through 7 suffer from an array of infirmities. They should be revoked or tightly narrowed for reasons set out herein.

S.D.T. Request Number 1:

1. A copy of all "Election Day Sign Up Sheets" or other documents prepared for the purpose of having Team Members sign up to vote at the Election ("Sign Up Sheets"); all drafts, versions, and variations of the Sign Up Sheets; all documents relating to the source, preparation, distribution and/or circulation of the Sign Up Sheets; and all correspondence concerning the Sign Up Sheets.

S.T.D. Request Number 1 relates to Objection Number 1. This objection alleges that the Petitioner engaged in objectionable conduct by polling employees as to their intention to vote for the Petitioner. On its face, Objection Number 1 does not state a claim of objectionable conduct. NLRB law is clear that union polling of employee sentiments in an election is neither unlawful nor objectionable. *In See Durham Sch. Servs., Lp & Int'l Bhd. of Teamsters, Local 991*, 360 NLRB No. 108 (May 9, 2014) ("whatever an employee may tell a union about how she intends to vote, and however a union may publicize that disclosure, the fact remains that the employee's actual vote will be secret"); *See In Re Enter. Leasing Co.-Se., LLC*, 357 NLRB No. 1799, 1800, *supra* at *3 ("[Although employer polling is generally assumed to be coercive and therefore

unlawful, union polling is generally recognized as lawful activity."); *Somerset Valley Rehabilitation & Nursing Center*, 357 NLRB No. 71 (2011) (citing ballot secrecy in rejecting argument that employees whose names and pictures appeared in flyer would feel compelled to support union); *Windsor House C & D*, 309 NLRB 693, 697 (1992); *Kusan Mfg. Co*., 267 NLRB 740 (1983); (not objectionable for union to solicit employees to sign petition affirming they would vote for union), *enfd.* 749 F.2d 362 (6th Cir. 1984); *Springfield Hospital*, 281 NLRB 643 (1986) *enfd*. 899 F.2d 1305 (2d Cir. 1990) (union's use of charts at meetings to record employee sentiments not objectionable); *J.C. Penney Food Department*, 195 NLRB 921 fn. 4 (1972) (not objectionable for union to poll employees as to how they would vote), *enfd*. 82 LRRM 2173 (7th Cir. 1972); *Mercy-Memorial Hospital*, 279 NLRB 360 (1986) (not objectionable for union to ask prounion employees to report activities of coworkers who were assisting management), e*nfd. sub nom. NLRB v. Mercy-Memorial Hospital Corp*., 836 F.2d 1022 (6th Cir. 1988).

In order to sustain Objection Number 1, the Employer must prove two facts: first, the persons engaged in coercing or intimidating conduct in the course of polling, and second, these persons were "agents" of the Petitioner as alleged. Absent a satisfactory *prima facie* evidentiary demonstrate that either of these circumstances is plausible, this subpoena request should be revoked. The Hearing Officer should allow any discovery of the Petitioner's records only after the Employer has established that it has a colorable evidentiary basis for its objection.

Request Number 1 should be further limited because it seeks *all* copies of "Sign Up" sheets that the Petitioner may possess, and therefore it demands access to alleged

forms actually completed by employees. If it were the case that employees provided information to the Petitioner concerning details of the employees' intention to vote for the Petitioner, that information comprises communications that are protected by Section 7 of the Act. The Employer has no need to discover such confidential communications to establish whether as a generic matter the Union engaged in polling of employee sentiments.

In summary, the Employer should be required to establish the fact that Petitioner's "agents" engaged in polling and that it did so in a coercive manner prior to having the right to discovery any internal union documents. To the extent that the Employer can make that showing, it should be allowed to review only generic documents, and should not have access to communications that may express the sentiments of identifiable employees with respect to the question of representation.

S.D.T. Request Number 2:

2. A copy of all correspondence and documents regarding the functions, duties and responsibilities of "contacts" for the Sign Up Sheet.

S.D.T. Request Number 2 suffers from the similar defects as Request Number 1. Until the Employer has presented evidence that agents of the Petitioner engaged in coercive conduct, it should not be able to engage in wholesale discovery of the Petitioner's alleged efforts around polling because such polling is neither objectionable nor illegal. Moreover, to the extent the request seeks copies of correspondence between the Petitioner and employees regarding the alleged "Sign Up Sheet," such correspondence implicates Section 7-protected interests.

S.D.T. Request Number 3:

3. A copy of all correspondence and documents regarding the functions, duties and responsibilities of Observers of the Election.

Assuming proper service, Petitioner does not object to this request to the extent that it seeks only written instructions or other documents that may have been provided by the Petitioner to election observers regarding their functions, duties and responsibilities as such. However, to the extent that this document seeks other documents unrelated to the objections and/or that reveal internal discussions of the Petitioner (including any instructions as to the list of any voters to challenge based upon eligibility), S.D.T. Request #3 is overbroad and should be limited.

S.D.T. Request Number 4:

4. A copy of all correspondence and documents, including but not limited to statements, manuals, and video and audio records, regarding the Election at Green Valley Ranch and the Union's preparation and plans for the same, including but not limited to guidance, instructions, directions, plans, protocols and schedules issued to or communicated with Team Members pertaining to the Election. This request specifically excludes copies of union authorization cards, lists of Team Members who attended Union meetings, petitions requesting recognition and documents that pertain to contacting employees for purposes of obtaining an NLRB election, Jencks material, communications with counsel, a labor organization, or employees for purposes of initiating Board proceedings, or communications regarding collective bargaining between Station Casinos and the authorized representative of employees.

Notwithstanding the limiting exclusions pertaining to union authorization cards, and other items, S.D.T. Request Number 4 is vastly overbroad and does not reasonably relate to any objection. Again, the Employer's objections relate to *twelve* discrete

allegations of alleged misconduct. There is no purpose for the Employer's demand for "*all correspondence and documents . . . regarding the Election at Green Valley Ranch and the Union's preparation and plans for the same*." Such a request would require the Union to disclose internal discussions and strategies pertaining to the plan to file the election petition; internal emails, texts or other communications pertaining in any manner to the election whatsoever; financial documents and expense reports; and any number of other matters that have nothing to do with the discrete allegations of misconduct alleged. The Employer is literally demanding to gain unfettered access to the Union's records without even a pretense to a connection with the objections.

The Board has repeatedly refused to allow employers to hijack objections proceedings for purposes of conducting a general audit of a union's organizing efforts. In *United Ass'n of Journeymen & Apprentices*, 328 NLRB 1235, 1236 (1999), the Board revoked a union's subpoena for employer records because the union had not initially controverted the record evidence through its own testimony. The Board wrote that "[i]n the absence of any evidence contradicting the testimony in the record, the hearing officer properly refused to permit [the union] to engage in a fishing expedition through the use of the Board's subpoena authority." *Id.* at 1236. *See also Berbiglia, Inc.*, 233 NLRB 1476, 1495 (1977) (revoking subpoena in which employer sought "a wide-ranging examination of the Union's records, including communications between the Union and its members and with other organizations"); *Murcel Mfg. Corp.*, 231 NLRB 623, 624-625 (1977) (refusing to permit employer to conduct a "fishing expedition" through internal union documents in the absence of a specific factual dispute); *Millsboro Nursing &*

Rehabilitation Center, Inc., 327 NLRB 879, 879, n. 2 (1999) (quashing subpoena for union expense records); *Laguna College of Art & Design*, 362 NLRB No. 112, n. 1 (emails and texts about organizing strategy not properly subject to discovery).

The Rules and Regulations of the National Labor Relations Board state that a subpoena must be revoked if "the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence whose production is required." 29 C.F.R. § 102.31(b); *see also Smitty's Supermarkets, Inc.*, 310 NLRB. 1377, 1379 (1993) (revoking subpoena for irrelevant documents); *Brink's Inc.*, 281 NLRB. 468, 469 (1986) (subpoena revoked as "unreasonably broad"); *Howard Johnson Co.*, 250 NLRB. 1412, 1412 n.2 (1980), *enf'd* 671 F.2d 1383 (11th Cir. 1982) (same). Here, S.D.T. Request Number 4's demand for a general disclosure of all election-related documents is unreasonably broad because it does not relate to any matter under investigation. It should be revoked in its entirety.

<u>S.D.T. Request Number 5:</u>

5. A copy of all documents, including but not limited to statements, manuals, and video and audio recordings, related to the campaign preceding the Election at Green Valley Ranch. This request specifically excludes copies of union authorization cards, lists of Team Members who attended Union meetings, petitions requesting recognition and documents that pertain to contacting employees for purposes of obtaining an NLRB election, Jencks material, communications with counsel, a labor organization, or employees for purposes of initiating Board proceedings, or communications regarding collective bargaining between Station Casinos and the authorized representative of employees.

S.D.T. Request Number 5 should be revoked for the same reason as S.D.T.

Request Number 4. The only difference between these two requests is that Request Number 5 specifies that it seeking "all documents . . . related *to the campaign preceding* the Election at Green Valley Ranch." Given that the "campaign preceding the Election" overlaps with the "Union's preparation for the same" as referenced in Request Number 4, these requests are effectively identical. Again, the Employer has alleged twelve discrete acts of misconduct. It does not have the right to engage in a general dragnet of the Union's records that pertain in any manner to the election or the campaign that preceded it. S.D.T. Request Number 5 should be revoked in its entirety.

S.D.T. Request Number 6:

6. A copy of all documents maintained by or at the direction of the Union regarding Team Members who did or did not vote during the Election. To eliminate any risk that the production of such documents will violate the Section 7 rights of Team Members, counsel for the Requesting Party agrees to maintain confidentially and not to share the contents of same with Green Valley Ranch or Station Casinos.

S.D.T. Request Number 6 appears to relate to relate Objection 8. That objection alleges that "Union agents maintained a list of who had voted, thereby interfering with employees' rights to refrain from voting, was intimidating and coercive, destroyed the requirement that their vote be in-secret, voluntary, or anonymous, demonstrate the Union was monitoring whether they voted, and created an intimidating and coercive atmosphere."

The NLRB adheres to the principle that keeping a list of voters separate from the *Excelsior* list is objectionable "only when it can be shown or inferred from the circumstances that employees knew their names were being recorded." *Southland*

Containers, Inc., 312 NLRB 1087 (1993). Employee perception—and not the fact of a list—is what constitutes the basis for the objectionable conduct. Unless the Employer provides at least *prima facie* evidence establishing that employees reasonably perceived that any of their coworkers was engaged in "list keeping," it should not be entitled to engage in discovery of purported "lists."

Even then, the Employer should be required to articulate a strong showing of relevancy for the discovery based upon the evidence it has adduced owing to the strong Section 7 interests at issue. Its promise "to maintain the confidentiality and not to share the contents of same with Green Valley Ranch or Station Casinos" is unworkable. This is a public hearing, and the record of it is public. The evidence the Employer seeks has little if any relevance to what the Employer must prove. It should be required to establish the objection without trenching upon employees' Section 7 rights. *See National Telephone Directory Corp*., 319 NLRB 420, 421 (1995) (stating that "[t]he confidentiality interests of employees have long been an overriding concern to the Board" and revoking subpoena seeking union authorizations cards); *Conagra, Inc*., 311 NLRB 1056, 1057 (1993) (refusing to enforce subpoena for union meeting attendance records); *Laguna College of Art & Design*, 362 NLRB No. 112, n. 1 ("the Employer's interests in obtaining the subpoenaed documents about this prounion conduct are outweighed by the considerable interests of [the employees] in keeping their Sec. 7 activity confidential").

<u>S.D.T. Request Number 7:</u>

7. A copy of all correspondence and documents between the Union and Union agents (including but not limited to Union agents who are also Team Members) regarding serving, acting or functioning as the Union's agents, officials or representatives

> related to the Election. To eliminate any risk that the production of such documents will violate the Section 7 rights of Team Members, counsel for the Requesting Party agrees to maintain confidentially and not to share the contents of same with Green Valley Ranch or Station Casinos.

The Union objects to this request because it presupposes that "Team Members" (or any of them) are "agents" of the Petitioner. That is a matter that the Employer must prove. Any responsive documents that the Petitioner provides does not constitute an acknowledgment that any "Team Member" is an agent of the Union.

The Petitioner further objects to this request to the extent that it seeks internal emails among the Petitioner's own employees regarding serving, acting or functioning as the Union's agents, officials or representatives. Such a request is unintelligible, and to the extent intelligible, does not relate to any matter at issue in the objections.

Finally, Petitioner incorporates its statement regarding the need to safeguard Section 7-protected communications as set forth with respect to S.D.T. Number 6.

CONCLUSION

For all the foregoing reasons, each of the subpoena should be revoked for the Employer's failure to properly serve them. To the extent the subpoenas are not revoked for that reason, they should be revoked or narrowed on substantive grounds. The Employer should be required to put evidence into the record that establishes a *prima facie* violation before the Union is require to divulge records, and then only to the extent that does not reveal Section 7-protected information pertaining to identifiable employees.

Dated: November 30, 2017

Respectfully submitted,

/s/Eric B. Myers

Eric B. Myers
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
Phone: (415) 597-7200
Fax: (415) 597-7201
Email: ebm@msh.law

Attorneys for Petitioner Local Joint Executive Board of Las Vegas

PROOF OF SERVICE
STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

I am employed in the city and country of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 595 Market Street, Suite 800, San Francisco, CA 94105.

I hereby certify that a true and correct copy of the foregoing document entitled **LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS' PETITION TO REVOKE EMPLOYER'S SUBPOENAS** was filed using the National Labor Relations Board on-line E-filing system on the Agency's website and copies of the aforementioned were therefore served upon the following parties via electronic mail on this 30th day of November, 2017 as follows:

Cornele Overstreet, Regional Director *cornele.overstreet@nlrb.gov*
National Labor Relations Board Region 28
2600 N. Central Ave. Ste. 1400
Phoenix AZ 85004-3019

Nathan Higley *nathan.higley@nlrb.gov*
National Labor Relations Board
Region 28 - Las Vegas Resident Office
600 Las Vegas Blvd. South, Ste. 400
Las Vegas, NV 89101-6637

Harriet Lipkin *Harriet.Lipkin@dlapiper.com*
Kevin Harlow *Kevin.Harlow@dlapiper.com*
DLA Piper LLP
500 Eighth Street, NW
Washington, DC 20004

Attorneys for Employer

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 30, 2017 at San Francisco, California.

/s/Yien San Juan
Yien San Juan

APPENDIX A

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

STATION GVR ACQUISITION, LLC d/b/a
GREEN VALLEY RANCH RESORT SPA CASINO

Employer

and **Case 28-RC-208266**

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS AFFILIATED WITH
UNITE HERE INTERNATIONAL UNION

Petitioner

ORDER DIRECTING HEARING ON OBJECTIONS AND NOTICE OF HEARING

Pursuant to a Stipulated Election Agreement approved by me on October 26, 2017,[1] an election by secret ballot was conducted under my direction and supervision on November 8 and 9, by an agent of the National Labor Relations Board (the Board) among employees of the Employer in the unit found appropriate for collective bargaining.[2] The Tally of Ballots, which was served on all parties at the conclusion of the balloting, showed the following:

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[1] All dates 2017, unless otherwise specified.

[2] All regular full-time and regular part-time and regular on-call Banquet Bartenders, Banquet Porters, Banquet Servers, Bar/Beverage Porters, Bartenders, Bell Captains, Bell Persons, Beverage Servers, Bus Persons, Concession Workers, Catering Beverage Porters, Cooks, Cook's Helpers, Counter Attendants, Food Servers, Gourmet Hosts/Cashiers, Host/Cashiers, IM Porters, Kitchen Runners, Kitchen Workers, Lead Banquet Porters, Lead Counter Attendants, Lucky VIP Attendants, Lucky VIP Bartenders, Pantry Workers, Pantry Workers 11, Resort Guest Room Attendants, Resort Housepersons, Resort Steakhouse Cooks, Resort Suite Guest Room Attendants, Room Runners, Service Bartenders, Sprinters, Status Board Operators, Steakhouse Captains, Stove Persons, Sushi Cooks, Team Member Dining Room Attendants, Turndown Guest Room Attendants, Utility Porters, VIP Attendants, VIP Bartenders, VIP Lounge Bartenders, VIP Servers employed by the Employer at Green Valley Ranch Resort Spa Casino; excluding all other employees, including all front-desk employees, valet parkers, gaming employees (dealers, slot attendants, cage cashiers), inspectresses, engineering and maintenance

Approximate number of eligible voters ……..	833
Number of void ballots …….……..	3
Number of votes cast for Petitioner ……	571
Number of votes cast against participating labor organization …..	156
Number of valid votes counted ……...	727
Number of challenged ballots …….	3
Number of valid votes counted plus challenged ballots …….	730

Objections to conduct affecting the results of the election were timely filed by the Employer on November 14. The objections which are fully set forth below state:

THE OBJECTIONS

1. The Local Joint Executive Board of Las Vegas affiliated with UNITE HERE International Union ("Union") prepared "Election Day Sign Up Sheets" containing names and contact information taken from the list of eligible voters; distributed the Sheets to its agents; and instructed the agents to direct bargaining unit employees that they must "sign up" to vote on a specified date and time, and that they must vote "Yes" for the Union. This interfered with employees' rights to refrain from voting, was intimidating and coercive, destroyed the requirement that their vote be in-secret, voluntary, or anonymous, and demonstrated that the Union was monitoring whether they voted.
2. The Union's agents escorted groups of eligible voters to the voting room, interfering with their right to choose to refrain from voting, was intimidating and coercive, destroyed the requirement that their vote be in-secret, voluntary, and anonymous, and demonstrated that the Union was monitoring whether they voted.
3. The Union's agents escorted voters to the voting room one-at-a-time, and departed only after the voter entered the voting room, interfering with their right to choose

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employees, office clerical employees, confidential employees, and all guards, managers and supervisors as defined by the Act.

to refrain from voting, was intimidating and coercive, destroyed the requirement that their vote be in-secret, voluntary, and anonymous, and demonstrated that the Union was monitoring whether they voted.

4. The Union's agents directed and instructed bargaining unit employees to show their marked ballots to the Union's Observers, to "prove" how they voted. On multiple occasions, voters entered the ballot booth, exited the booth with their ballots in hand, and walked towards the Union's Observer, and not the ballot box. A Board agent directed the voters to deposit the ballots in the ballot box, and commented he had not seen such unusual conduct prior to the election in the above-captioned matter.
5. The Union's agents directed voters to wear Union buttons when voting.
6. The Union's agents patrolled the hall immediately adjacent to the voting room in the "no electioneering" area and frequently looked inside, maintaining an intimidating physical presence around the voting room and demonstrating that the Union was monitoring who had voted in the election, was intimidating and coercive, destroyed the requirement that their vote be in-secret, voluntary, or anonymous, and demonstrated that the Union was monitoring whether they voted. This happened on multiple occasions; on at least one occasion a Board agent exited the voting room as the individual quickly departed the "no electioneering" area ahead of the Board agent; and on at least one other occasion a Board agent confronted an individual and directed the individual to depart from the "no electioneering" area.

7. The Union's agent instructed voters waiting outside of the voting room where to stand and when to enter the voting room, creating the impression that the Union agent controlled the voting process.
8. The Union's agents maintained a list of who had voted, thereby interfering with employees' rights to refrain from voting, was intimidating and coercive, destroyed the requirement that their vote be in-secret, voluntary, or anonymous, demonstrated the Union was monitoring whether they voted, and created an intimidating and coercive atmosphere.
9. On several occasions, voters openly carried cell phones into the voting room and voting booths, but were not instructed by a Board agent that the use of such devices was restricted, creating the impression amongst voters that their voting activities were being monitored and recorded, and enabling voter fraud, coercion and intimidation.
10. On at least two occasions, voters lingered and conversed near the ballot box and/or beverage station, creating the impression amongst voters that their voting activities were being monitored, and enabling voter coercion and intimidation.
11. An appropriate flow of voters was not maintained, resulting in rushed and unreliable verifications of voter eligibility.
12. An Observer was permitted to serve after the Observer asked that a Board agent read the ballot to [redacted], indicating that the purported Observer was illiterate or suffered vision problems, and was designated as an Observer for purposes of intimidating voters.

CONCLUSION AND ORDER

I have concluded that the evidence submitted by the Employer in support of its objections could be grounds for overturning the election if introduced at a hearing. Accordingly, in accordance with Section 102.69(c)(1)(ii) of the Board's Rules and Regulations, IT IS ORDERED that a hearing shall be held before a Hearing Officer designated by me, for the purpose of receiving evidence to resolve the issues raised by the objections. At the hearing, the parties will have the right to appear in person to give testimony, and to examine and cross-examine witnesses.

Upon the conclusion of the hearing, the Hearing Officer shall submit to me and serve on the parties a report containing resolutions of the credibility of witnesses, findings of fact and recommendations as to the disposition of the objections.

NOTICE OF HEARING

Starting at 10:00 a.m. on November 30, 2017 in the hearing room at the National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901 Las Vegas, the hearing on objections as described above will be conducted before a hearing officer of the National Labor Relations Board. The hearing will continue on consecutive days thereafter until completed unless I determine that extraordinary circumstances warrant otherwise.

Dated: November 17, 2017

Cornele A. Overstreet, Regional Director

APPENDIX B

CERTIFIED MAIL

7003 2260 0002 8693 2583

NEOPOST FIRST-CLASS MAIL
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First Class Mail

DLA PIPER

DLA Piper LLP (US)
500 8th Street, NW
Washington, DC 20004

Eric B. Myers
McCracken, Stemerman & Holsberry, LLP
595 Market Street, Suite 800
San Francisco, CA 94105

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Your item was delivered to the front desk or reception area at 2:33 pm on November 27, 2017 in SAN FRANCISCO, CA 94105.

Delivered

November 27, 2017 at 2:33 pm
DELIVERED, FRONT DESK/RECEPTION
SAN FRANCISCO, CA 94105

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Go to our **FAQs (http://faq.usps.com/?articleId=220900)** section to find answers to your tracking questions.

APPENDIX C

FORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To (b) (6), (b) (7)(C)

c/o Local Joint Executive Board of Las Vegas affiliated with UNITE HERE, 1630 S. Commerce Street, Las Vegas, NV 89102

As requested by Harriet Lipkin, DLA Piper

whose address is 500 Eighth Street, NW, Washington, DC 20004
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer of the National Labor Relations Board

at National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901

in the City of Las Vegas, Nevada

on December 5, 2017 at 10:00 a.m. or any adjourned or rescheduled date to testify in Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino 28-RC-208266
(Case Name and Number)

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

(b) (6), (b) (7)(C)

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated:

Philip A. Miscimarra
Chairman, National Labor Relations Board

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

APPENDIX D

FORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To (b) (6), (b) (7)(C)

c/o Local Joint Executive Board of Las Vegas affiliated with UNITE HERE, 1630 S. Commerce Street, Las Vegas, NV 89102

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whose address is 500 Eighth Street, NW, Washington, DC 20004
(Street) (City) (State) (ZIP)

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at National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901

in the City of Las Vegas, Nevada

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(Case Name and Number)

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(b) (6), (b) (7)(C)

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Issued at

Dated:

Philip A. Miscimarra
Chairman, National Labor Relations Board

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APPENDIX E

FORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To (b) (6), (b) (7)(C) [redacted]

c/o Local Joint Executive Board of Las Vegas affiliated with UNITE HERE, 1630 S. Commerce Street, Las Vegas, NV 89102

As requested by Harriet Lipkin, DLA Piper

whose address is 500 Eighth Street, NW, Washington, DC 20004
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer of the National Labor Relations Board

at National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901

in the City of Las Vegas, Nevada

on December 5, 2017 at 10:00 a.m. or any adjourned or rescheduled date to testify in Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino 28-RC-208266
(Case Name and Number)

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(b) (6), (b) (7)(C)

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated:

Chairman, National Labor Relations Board

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APPENDIX F

FORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Kevin Kline
c/o Local Joint Executive Board of Las Vegas affiliated with UNITE HERE, 1630 S. Commerce Street, Las Vegas, NV 89102

As requested by Harriet Lipkin, DLA Piper

whose address is 500 Eighth Street, NW, Washington, DC 20004
(Street) (City) (State) (ZIP)

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at National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901

in the City of Las Vegas, Nevada

on December 5, 2017 at 10:00 a.m. or any adjourned or rescheduled date to testify in Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino 28-RC-208266
(Case Name and Number)

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A-1-Z1YQH3

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated:

Chairman, National Labor Relations Board

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APPENDIX G

FORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To (b) (6), (b) (7)(C)

c/o Local Joint Executive Board of Las Vegas affiliated with UNITE HERE, 1630 S. Commerce Street, Las Vegas, NV 89102

As requested by Harriet Lipkin, DLA Piper

whose address is 500 Eighth Street, NW, Washington, DC 20004
(Street) (City) (State) (ZIP)

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at National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901

in the City of Las Vegas, Nevada

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(Case Name and Number)

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(b) (6), (b) (7)(C)

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Issued at

Dated:

Chairman, National Labor Relations Board

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PRIVACY ACT STATEMENT

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APPENDIX H

FORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To (b) (6), (b) (7)(C)

c/o Local Joint Executive Board of Las Vegas affiliated with UNITE HERE, 1630 S. Commerce Street, Las Vegas, NV 89102

As requested by Harriet Lipkin, DLA Piper

whose address is 500 Eighth Street, NW, Washington, DC 20004

(Street) (City) (State) (ZIP)

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at National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901

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on December 5, 2017 at 10:00 a.m. or any adjourned or rescheduled date to testify in Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino 28-RC-208266

(Case Name and Number)

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

(b) (6), (b) (7)(C)

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated:

Chairman, National Labor Relations Board

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

APPENDIX I

FORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To (b) (6), (b) (7)(C) [redacted]

c/o Local Joint Executive Board of Las Vegas affiliated with UNITE HERE, 1630 S. Commerce Street, Las Vegas, NV 89102

As requested by Harriet Lipkin, DLA Piper

whose address is 500 Eighth Street, NW, Washington, DC 20004
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer of the National Labor Relations Board

at National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901

in the City of Las Vegas, Nevada

on December 5, 2017 at 10:00 a.m. or any adjourned

or rescheduled date to testify in Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino 28-RC-208266
(Case Name and Number)

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

(b) (6), (b) (7)(C) [redacted]

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated:

Philip A. Miscimarra

Chairman, National Labor Relations Board

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

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APPENDIX J

ORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To (b) (6), (b) (7)(C)

c/o Local Joint Executive Board of Las Vegas affiliated with UNITE HERE, 1630 S. Commerce Street, Las Vegas, NV 89102

As requested by Harriet Lipkin, DLA Piper

whose address is 500 Eighth Street, NW, Washington, DC 20004
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer of the National Labor Relations Board

at National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901

in the City of Las Vegas, Nevada

on December 5, 2017 at 10:00 a.m. or any adjourned or rescheduled date to testify in Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino 28-RC-208266
(Case Name and Number)

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(b) (6), (b) (7)(C)

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated:

Philip A. Miscimarra
Chairman, National Labor Relations Board

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PRIVACY ACT STATEMENT

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APPENDIX K

FORM NLRB-32

SUBPOENA

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Custodian of Records of Local Joint Executive Board of Las Vegas (Culinary Workers Union Local 226 and Barternders Union Local 165) affiliated with UNITE HERE, 1630 S. Commerce Street, Las Vegas, NV 89102

As requested by Harriet Lipkin, DLA Piper

whose address is 500 Eighth Street, NW, Washington, DC 20004
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer of the National Labor Relations Board

at National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901

in the City of Las Vegas, Nevada

on December 5, 2017 at 10:00 a.m. or any adjourned or rescheduled date to testify in Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino 28-RC-208266
(Case Name and Number)

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

A-1-Z1YAA1

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated:

Chairman, National Labor Relations Board

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

APPENDIX L

FORM NLRB-31

SUBPOENA DUCES TECUM

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

To Custodian of Records of Local Joint Executive Board of Las Vegas (Culinary Workers Union Local 226 and Bartenders Union Local 165) affiliated with UNITE HERE, 1630 S. Commerce Street, Las Vegas, NV 89102

As requested by Harriet Lipkin, DLA Piper

whose address is 500 Eighth Street, NW Washington, DC 20004
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE a Hearing Officer of the National Labor Relations Board

at National Labor Relations Board Resident Office, 300 Las Vegas Boulevard South, Suite 2-901

in the City of Las Vegas, Nevada

on December 5, 2017 at 10:00 a.m. or any adjourned or rescheduled date to testify in Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino 28-RC-208266
(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

SEE ATTACHMENT

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

B-1-Z1SXBX

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at

Dated:

Philip A. Miscimarra
Chairman, National Labor Relations Board

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

Subpoena No. **B-1-Z1SXBX**

ATTACHMENT TO SUBPOENA

Re: Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino
Case No. 28-RC-208266

DEFINITIONS AND INSTRUCTIONS FOR USE

1. **"Green Valley Ranch"** refers to Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino, its owner or owners, directors, managers, members, supervisors, agents, and/or representatives.

2. "**Union"** refers to Local Joint Executive Board of Las Vegas (Culinary Workers Union Local 226 and Bartenders Union Local 165), affiliated with UNITE HERE International Union, its directors, managers, members, supervisors, agents and/or representatives.

3. **"Team Members"** refers to bargaining unit employees employed by Green Valley Ranch.

4. **"Election"** refers to the representation election conducted by the National Labor Relations Board in Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino, Case 28-RC-208266, held on November 8 and 9, 2017.

5. **"Station Casinos"** refers to Station Casinos LLC, its owner or owners, successor or successors, affiliate or affiliates, directors, managers, members, supervisors, agents, and/or representatives.

6. "**Document**" or "**documents**" means *any* written, recorded, filmed or graphic matter, whether produced or reproduced on paper, cards, tapes, film, electronic facsimile, computer storage device, or any other media, including, *but not limited* to, memoranda, notes, minutes, records, telephone contacts, notice of disciplinary actions, photographs, correspondence, telegrams, diaries, bookkeeping entries, financial statements, tax returns, checks, check stubs, reports, studies, charts, graphs, statements, notebooks, handwritten notes, applications, agreements, books, pamphlets, periodicals, appointment calendars, records or recordings of oral conversations, employment forms, originals and all copies which are different in any way from the original, whether by interlineation, receipt, stamp, notations, indication of copies sent or received, or otherwise, and drafts. The terms include all graphic or records and representations of any kind, including without limitation photographs, charts, graphs, microfiche, microfilm, videotape recordings, motion pictures and electronic, mechanical or electrical records or recordation of any kind including without limitation electronic mail communications, computer disks, computer input or output, computer hard drive files, tapes, cassettes, disks and recordings. The term includes materials in any language.

7. "**Correspondence**" includes, but is *not* limited to, letters, memoranda, notes, tapes of telephone conversations or personal conversations, telegraphs, reports, teletype

messages, electronic-mail, interoffice communications, recordings of conversations and telefax communications, and records of the same.

8. "**Any**," "**each**," and "**all**" shall be read to be all-inclusive and to require the production of each and every document responsive to the request in which such terms appear.

9. "**And**" and "**or**," and any other conjunctions or disjunctions used herein shall be read both conjunctively and disjunctively, so as to make the request inclusive rather than exclusive, and to require the enumeration of all information responsive to all or any part of each request in which any conjunction or disjunction appears.

10. This subpoena is intended to cover all documents that are in the possession, custody, or control of the Union, its agents, and/or representatives.

11. If any of the requested documents cannot be produced in full, then produce those documents to the extent possible, and specify the Union's reasons for the inability to produce the remainder, stating whatever information, knowledge or belief the Union has concerning the unproduced portion.

12. As to any documents not produced in compliance with this subpoena on any ground or if any requested document was, through inadvertence or otherwise, destroyed or no longer in your possession, custody or control, identify:

a) the document (stating its date, author, addressee(s), recipients, intended recipients, title, and subject matter);
b) if applicable, explain the timing and circumstances by which the document was, through inadvertence or otherwise, destroyed, discarded, disposed of, or no longer in your possession, custody or control;
c) if applicable, identify all persons (stating the person's name, title, business address and telephone number, and home address and telephone number) who authorized disposal of the document; and
d) all persons (stating the person's name, title, business address and telephone number, and home address and telephone number) known or believed to have the document or a copy thereof in their possession, custody, or control.

13. This request is continuing in character and if additional responsive documents come to your attention following the date of production, such documents *must be promptly* produced.

14. This request seeks production of all documents described, including all drafts and non-identical or distribution copies.

15. This request contemplates production of responsive documents in their entirety, without abbreviation, redaction, or expurgation.

16. All documents produced pursuant to this subpoena are to be *organized* by what subpoena paragraph each document or set of documents are responsive to, and labels referring to that subpoena paragraph are to be affixed to each document or set of documents.

17. Unless otherwise noted, this subpoena does not supersede, revoke or cancel any subpoenas previously issued in this proceeding.

18. If any of the requested documents in whole or in part cannot be produced because they are deemed as privileged or otherwise subject to protection as trial preparation material or otherwise, then describe the nature of the document not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable the assessment of the applicability of the privilege or protection.

DOCUMENTS REQUESTED

1. A copy of all "Election Day Sign Up Sheets" or other documents prepared for the purpose of having Team Members sign up to vote at the Election ("Sign Up Sheets"); all drafts, versions, and variations of the Sign Up Sheets; all documents relating to the source, preparation, distribution and/or circulation of the Sign Up Sheets; and all correspondence concerning the Sign Up Sheets.

2. A copy of all correspondence and documents regarding the functions, duties and responsibilities of "contacts" for the Sign Up Sheet.

3. A copy of all correspondence and documents regarding the functions, duties and responsibilities of Observers of the Election.

4. A copy of all correspondence and documents, including but not limited to statements, manuals, and video and audio records, regarding the Election at Green Valley Ranch and the Union's preparation and plans for the same, including but not limited to guidance, instructions, directions, plans, protocols and schedules issued to or communicated with Team Members pertaining to the Election. This request specifically excludes copies of union authorization cards, lists of Team Members who attended Union meetings, petitions requesting recognition and documents that pertain to contacting employees for purposes of obtaining an NLRB election, Jencks material, communications with counsel, a labor organization, or employees for purposes of initiating Board proceedings, or communications regarding collective bargaining between Station Casinos and the authorized representative of employees.

5. A copy of all documents, including but not limited to statements, manuals, and video and audio recordings, related to the campaign preceding the Election at Green Valley Ranch. This request specifically excludes copies of union authorization cards, lists of Team Members who attended Union meetings, petitions requesting recognition and documents that pertain to contacting employees for purposes of obtaining an NLRB election, Jencks material, communications with counsel, a labor organization, or employees for purposes of initiating Board proceedings, or communications regarding collective bargaining between Station Casinos and the authorized representative of employees.

6. A copy of all documents maintained by or at the direction of the Union regarding Team Members who did or did not vote during the Election. To eliminate any risk that the production of such documents will violate the Section 7 rights of Team Members, counsel for the Requesting Party agrees to maintain confidentially and not to share the contents of same with Green Valley Ranch or Station Casinos.

7. A copy of all correspondence and documents between the Union and Union agents (including but not limited to Union agents who are also Team Members) regarding serving, acting or functioning as the Union's agents, officials or representatives related to the Election. To eliminate any risk that the production of such documents will violate the

Section 7 rights of Team Members, counsel for the Requesting Party agrees to maintain confidentially and not to share the contents of same with Green Valley Ranch or Station Casinos.

8. A copy of all correspondence and documents concerning any communication between the Union and customers or potential customers, between January 1, 2015 and the present, relating to any hotel or casino owned, operated by and/or affiliated with Station Casinos, including but not limited to flyers, electronic communications, Web postings, advertisements, and video or audio recordings.

9. A copy of all correspondence and documents concerning any communication, between January 1, 2015 and the present, between the Union and individuals and/or entities doing business with any hotel or casino owned, operated by and/or affiliated with Station Casinos or any entity affiliated with Station Casinos, including but not limited to flyers, electronic communications, Web postings, advertisements, and video or audio recordings.

10. A copy of all correspondence and documents concerning any communication, between January 1, 2015 and the present, regarding doing business with, patronizing, investing in and/or refraining from doing business with any hotel or casino owned, operated by and/or affiliated with Station Casinos or any entity affiliated with Station Casinos, including but not limited to flyers, electronic communications, Web postings, advertisements, and video or audio recordings.

APPENDIX M

McCRACKEN, STEMERMAN & HOLSBERRY, LLP

Counselors and Attorneys at Law

November 27, 2017

Via Email (Harriet.Lipkin@dlapiper.com)
and Facsimile (202-799-5250)

Harriet Lipkin
DLA Piper LLP
500 Eighth Street, NW
Washington, DC 20004

Re: *Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino, Case No. 28-RC-208266*

Dear Harriet:

To follow up on my email of a short time ago today, please be advised that this law firm does not accept service of the subpoena that you sent by mail pertaining to the captioned matter. We are not authorized to accept service of process on behalf of any of the subpoenaed persons. We will return them by regular mail tomorrow.

Regards,

Eric B. Myers

EBM[redacted]

San Francisco

595 Market Street, Suite 800
San Francisco, California 94105
415.597.7200
Fax 415.597.7201

Steven L. Stemerman (CA, NV)
Richard G. McCracken (CA, NV)
W. David Holsberry (CA, NV)
John J. Davis, Jr. (CA)
Florence E. Culp (CA, NV)
Kristin L. Martin (CA, NV, HI)
Eric B. Myers (CA, NV)
Paul L. More (CA, NV, MA)
Sarah Varela (CA, AZ, NV)
Sarah Grossman-Swenson (CA, NV)
Yuval Miller (CA, NV)
David L. Barber (CA, NV)
Kimberley C. Weber (CA, NV)
Yonina Alexander (CA)
A. Mirella Nieto (CA)

Robert P. Cowell (1931-1980)

Philip Paul Bowe (CA) (Ret.)
Barry S. Jellison (CA) (Ret.)

Las Vegas

1630 S. Commerce Street, Suite A-1
Las Vegas, Nevada 89102
702.386.5107
Fax 702.386.9848

From:	(b) (6), (b) (7)(C)
To:	Overstreet, Cornele; Higley, Nathan A.; Harriet.Lipkin@dlapiper.com; Kevin.Harlow@dlapiper.com
Cc:	Eric Myers
Subject:	Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino / Case 28-RC-208266 [IWOV-Legal.FID323682]
Date:	Friday, December 1, 2017 8:06:08 PM
Attachments:	Opposition to Petition to Revoke.pdf

Dear All,

Please see attached for a copy of Local Joint Executive Board of Las Vegas' opposition to Employer's petition to revoke subpoena No. B-1-Z26K9J filed today with the NLRB regarding the above-referenced case.

Regards,

(b) (6), (b) (7)

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) *Eric B. Myers, John J. Davis, Jr., and Yonina Alexander*

McCRACKEN, STEMERMAN & HOLSBERRY, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
Phone: (415) 597-7200 (b) (6), (b) (7)(C)
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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

STATION GVR ACQUISITION, LLC
d/b/a GREEN VALLEY RANCH
RESORT SPA CASINO, **Case No. 28-RC-208266**

Employer,

and

LOCAL JOINT EXECUTIVE BOARD
OF LAS VEGAS, A/W UNITE HERE
INTERNATIONAL UNION,

Petitioner.

PETITIONER'S OPPOSITION TO EMPLOYER'S PETITION TO REVOKE SUBPOENA NO. B-1-Z26K9J

Petitioner Joint Executive Board of Las Vegas hereby responds in opposition to Station GVR Acquisition LLC ("Employer")'s Petition to Revoke *Subpoena Duces Tecum*. The Employer objects to Petitioner's subpoena on three basis: first, the requests assertedly seek communications governed by the attorney-client privilege or work-product doctrine; second, Requests Number 14 seeks information that is assertedly irrelevant to the objections; and third, Request Number 16 seeks the Employer's offer of proof, which is assertedly confidential. As hereafter shown, the Employer's arguments are without merit.

I. The requests do not seek privileged information.

To the extent that the Employer believed from the requests that privileged information was sought, Petitioner clarifies that such is not the case. A customary privilege log should be maintained.

II. Request 14 seeks information that is potentially relevant to determining the "agency" status of employees.

Request 14 seeks "[a] copy of any video, poster, leaflet or other communication that you provided to any employee at any time during the critical period prior to the election that describes, characterizes or comments upon the Union."

This request is reasonably calculated to discover admissible evidence related to the purported status of employees as "agents" of the Union. Whether employees who advocate in favor of a union may be considered "agents" of the union depends in part on whether their coworkers would reasonably understand that the union maintained a separate presence separate and apart from the employees, or whether the employees were

the sole conduit for the union's communication with the potential bargaining unit. *See*, e.*g*., *Foxwood Resort Casino*, 352 NLRB 771, 772 (2008).

The Employer's characterization of the Petitioner in its communications with employees is potentially relevant evidence along these lines. Using a common employer tactic, management at Station Casino properties frequently characterize the Petitioner as a foreign "third party" that employees should not allow to come between themselves and management. That portrayal, in the Petitioner's view, undermines a conclusion that employees would reasonably view their coworkers as acting authoritatively on behalf of the Petitioner as the Petitioner's "agents." Rather, employees would understand—as the Employer says—that the Petitioner is a separate institution with its own assertedly separate interests. Whether the Employer's characterization of the Petitioner in its pre-election propaganda turns out to constitute compelling evidence on the agency issue or not is not the issue. Request 14 is at least reasonably calculated to lead to the discovery admissible material.

On the other side of the balance, there is no compelling rationale that favors not producing this material. Request Number 14 does not seek confidential information such as internal discussions or organizing strategies. *Compare Laguna College*, 362 NLRB No. 112, at n. 1. It seeks public communications that the Employer already distributed openly to workers. The Employer also need not be concerned that Petitioner will use this material to "refine its own communication strategies in its ongoing communication campaigns." Having won the vote by 78%, Petitioner does not believe its communication strategy needs refinement.

III. Request Number 16 does not seek material that is privileged from disclosure.

Request Number 16 seeks "[a] copy of the offer of proof associated with the present objections that you submitted to the National Labor Relations Board pursuant to Rule 102.69(a) of the Rules and Regulations of the National Labor Relations Board."

Petitioner is entitled to review the Employer's showing of interest for two reasons. First, Petitioner is entitled to ensure that the Employer presents evidence that does not exceed the scope of the matters that it submitted to the Regional Director. Second, Petitioner is entitled to determine whether the Employer's offer of proof may provide a source of impeachment in the event the Employer calls witnesses who statements it provided to the Regional Director.

Respondent misconstrues the Board's rules when it claims that its offer of proof is confidential. Pursuant to Section 102.69(a), the objecting party does not serve its offer of proof upon the other party when it files its objections. That is because the offer of proof is to serve the Regional Director in his or her initial investigation. However, the rule does not say that the offer of proof must be kept confidential during subsequent proceedings. Once the Regional Director has determined that a hearing is appropriate, the opposing party's right of access to the Employer's description of its evidence and any witness statements should prevail. This is so for two reasons.

First, because the purpose of the hearing is to allow the Employer to introduce the evidence that it specifically offered to prove, Petitioner should be entitled to ensure that the Employer is not expanding upon its objections theories, either by fishing for new evidence or by seeking to repackage its objections to cover evidence it has stumbled

upon. The undersigned counsel was involved in a lengthy objections hearing in this Region where by all appearances the employer expanded the case well beyond its offer of proof, adding at least a week to the proceeding in counsel's estimation. That should not be permitted here.

Second, Petitioner has a right to review any impeaching evidence that might be contained in the offer of proof. At the very least, the Employer's offer of proof should be provided to the Hearing Office for *in camera* review to assess for the existence of any witness statements or other evidence that might be used for impeachment. In the case such statements are present, they should be treated as *Jencks*-statements. At the same time, the Hearing Officer will be able to intelligently determine whether the Employer is seeking to expand its case beyond the offer of proof that justified the hearing.

The Employer's professed concerns regarding witness intimidation are a red herring. This is no longer a behind-closed-door investigation. This is now a public hearing. The Employer is required to present its witnesses. The Petitioner has a right to ensure that it is actually presenting the evidence it represented it would present, and not some different evidence. The Petitioner also has a right to cross examine the Employer's witnesses to ensure their testimony squares with prior accounts or descriptions of events that they may have provided.

For the foregoing reasons, the Employer's petition to revoke the *subpoena duces tecum* should be denied.

//

//

Dated: December 1, 2017

Respectfully submitted,

/s/Eric B. Myers

Eric B. Myers
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
Phone: (415) 597-7200
Fax: (415) 597-7201
Email: ebm@msh.law

Attorneys for Petitioner Local Joint Executive Board of Las Vegas

PROOF OF SERVICE
STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

I am employed in the city and country of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 595 Market Street, Suite 800, San Francisco, CA 94105.

I hereby certify that a true and correct copy of the foregoing document entitled **PETITIONER'S OPPOSITION TO EMPLOYER'S PETITION TO REVOKE SUBPOENA NO. B-1-Z26K9J** was filed using the National Labor Relations Board on-line E-filing system on the Agency's website and copies of the aforementioned were therefore served upon the following parties via electronic mail on this 1st day of December, 2017 as follows:

Cornele Overstreet, Regional Director *cornele.overstreet@nlrb.gov*
National Labor Relations Board Region 28
2600 N. Central Ave. Ste. 1400
Phoenix AZ 85004-3019

Nathan Higley *nathan.higley@nlrb.gov*
National Labor Relations Board
Region 28 - Las Vegas Resident Office
600 Las Vegas Blvd. South, Ste. 400
Las Vegas, NV 89101-6637

Harriet Lipkin *Harriet.Lipkin@dlapiper.com*
Kevin Harlow *Kevin.Harlow@dlapiper.com*
DLA Piper LLP
500 Eighth Street, NW
Washington, DC 20004

Attorney for Employer

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 1, 2017 at San Francisco, California.

/s/Yien San Juan
Yien San Juan

From:	Moore, Dawn M.
To:	Lipkin, Harriet; jsoto@local501.org
Subject:	Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino - Case 28-CA-214925
Date:	Thursday, February 22, 2018 2:39:51 PM
Attachments:	image001.png CPT.28-CA-214925.CNOH 2-22-18.pdf

Please see the attached document.

Dawn M. Moore

Administrative Assistant
Region 28 – Las Vegas Resident Office
National Labor Relations Board
Foley Federal Building
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101-5833
Tel: (702) 820-7466
Fax: (702) 388-6248

NATIONAL LABOR RELATIONS BOARD

Save a tree ~ Don't print me!

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

STATION GVR ACQUISITION, LLC d/b/a
GREEN VALLEY RANCH RESORT SPA CASINO

and **Case 28-CA-214925**

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 501, AFL-CIO

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by the International Union of Operating Engineers Local 501, AFL-CIO (the Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino (Respondent), has violated the Act as described below.

1. The charge in this proceeding was filed by the Union on February 15, 2018, and a copy was served on Respondent by U.S. mail on the same date.

2. (a) At all material times, Respondent has been a limited liability company with an office and place of business in Henderson, Nevada (Respondent's facility), and has been engaged in operating a hotel and casino.

(b) During the 12-month period ending February 15, 2018, Respondent in conducting its operations described above in paragraph 2(a), purchased and received at Respondent's facility goods valued in excess of $50,000 directly from points outside the State of Nevada.

(c) In conducting its operations during the 12-month period ending February 15, 2018, Respondent derived gross revenues in excess of $500,000.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. (a) At all material times, Sheila Lee has held the position of Labor Relations Manager and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

(b) At all material times, Respondent's counsel have been agents of Respondent within the meaning of Section 2(13) of the Act.

5. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time, regular part-time, and extra board slot technicians and utility technicians employed by Respondent at its Henderson, Nevada facility; excluding all other employees, office clerical employees, guards, and supervisors as defined in the Act.

(b) On about October 16, 2017, the Regional Director issued a Decision and Certification of Representative, certifying the Union as the exclusive collective-bargaining representative of the Unit.

(c) At all times since about October 16, 2017, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

(d) Since about October 31, 2017, the Union has requested that Respondent recognize and bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

(e) Since about November 6, 2017, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

6. By the conduct described above in paragraph 5, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

7. The unfair labor practice of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to this complaint. The answer must be **received by this office on or before March 8, 2018, or postmarked on or before March 7, 2018.** Respondent should file an original copy of the answer with this office. Respondent should serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **File Case Documents,** enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical

failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on a date and at a time to be determined, at the Hearing Room, National Labor Relations Board, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, Nevada, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to

be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Phoenix, Arizona, this 22nd day of February 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

Attachments

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 28-CA-214925

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

(1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).

(2) Grounds must be set forth in ***detail***;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and

(5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Station GVR Acquisition, LLC d/b/a
Green Valley Ranch Resort Spa Casino
2300 Paseo Verde Parkway
Henderson, NV 89052-2672

Harriet Lipkin, Attorney at Law
DLA Piper LLC (US)
500 8th Street NW
Washington, DC 20004-2131

Jose Soto, Director of Organizing
International Union of Operating Engineers,
Local 501
301 Deauville Street
Las Vegas, NV 89106-3912

Form NLRB-4668
(6-2014)

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative**. If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlrb.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlrb.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.

- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence**: At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits: Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing.

If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts**: An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.

- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

- **Date for Filing Post-Hearing Brief**: Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.

- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.

- **Exceptions to the ALJ's Decision**: The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

From:	Moore, Dawn M.
To:	gkline@culinaryunion226.org; ebm@msh.law
Subject:	FP Holdings, L.P., Palms Place L.L.C. & PPII Holdings L.L.C., a single employer, d/b/a Palms Casino Resort - Case 28-RC-217964
Date:	Friday, April 6, 2018 3:24:25 PM
Attachments:	image001.png DCK.28-CA-217964.Docket Packet to Petitioner 4-6-18.pdf

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Please see the attached documents.

Dawn M. Moore

Administrative Assistant
Region 28 – Las Vegas Resident Office
National Labor Relations Board
Foley Federal Building
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101-5833
Tel: (702) 820-7466
Fax: (702) 388-6248

NATIONAL LABOR RELATIONS BOARD

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 28
2600 North Central Avenue
Suite 1400
Phoenix, AZ 85004

Agency Website: www.nlrb.gov
Telephone: (602)640-2160
Fax: (602)640-2178

Download
NLRB
Mobile App

URGENT

April 6, 2018

Local Joint Executive Board of Las Vegas a/w
UNITE HERE International Union
1630 South Commerce Street
Las Vegas, NV 89102-2700
E-Mail: gkline@culinaryunion226.org

Re: FP Holdings, L.P., Palms Place L.L.C. &
PPII Holdings L.L.C., a single employer,
d/b/a Palms Casino Resort
Case 28-RC-217964

Dear Sir or Madam:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter; explains your obligation to provide the originals of the showing of interest; notifies you of a hearing; describes the employer's obligation to post and distribute a Notice of Petition for Election, complete a Statement of Position and provide a voter list; requests that you provide certain information; notifies you of your right to be represented; and discusses some of our procedures including how to submit documents to the NLRB.

Investigator: This petition will be investigated by Field Examiner Christopher J. Giardina whose telephone number is (702)820-7464. The mailing address is 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Deputy Regional Attorney David T. Garza whose telephone number is (505)313-7217. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

Showing of Interest: If the Showing of Interest you provided in support of your petition was submitted electronically or by fax, the original documents which constitute the Showing of Interest containing handwritten signatures must be delivered to the Regional office within **2 business days**. If the originals are not received within that time the Region will dismiss your petition.

Notice of Hearing: Enclosed is a Notice of Representation Hearing to be conducted at **10:00 AM** on **Monday, April 16, 2018** at the **NLRB Hearing Room**, **300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101,** if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded

unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, we will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party, the regional director may postpone the hearing for up to 2 business days upon a showing of special circumstances and for more than 2 business days upon a showing of extraordinary circumstances. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Posting and Distribution of Notice: The Employer must post the enclosed Notice of Petition for Election by **Tuesday, April 10, 2018** in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates with its employees electronically, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

Statement of Position: In accordance with Section 102.63(b) of the Board's Rules, the Employer is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition by **Noon Pacific Time** on **Friday, April 13, 2018.** The Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the Employer contends that the proposed unit is inappropriate, it must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The Employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit.

Voter List: If an election is held in this matter, the Employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names and addresses of all eligible voters, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. When feasible, the list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483, which is available on the NLRB's website or from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

Information Needed Now: Please submit to this office, as soon as possible, the following information needed to handle this matter:

(a) The correct name of the Union as stated in its constitution or bylaws.

(b) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any employees in the petitioned-for unit.

(c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.

(d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

Procedures: Also enclosed is a Description of Procedures in Certification and Decertification Cases (Form NLRB-4812). We strongly urge everyone to submit documents and other materials by E-Filing (not e-mailing) through our website, www.nlrb.gov. On all your correspondence regarding the petition, please include the case name and number indicated above.

Information about the NLRB and our customer service standards is available on our website, www.nlrb.gov, or from an NLRB office upon your request. We can provide assistance

for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

Cornele A. Overstreet
Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)

cc: Eric B. Myers, Attorney
McCracken, Stemerman and Holsberry, LLP
595 Market Street, Suite 800
San Francisco, CA 94105-2821
E-Mail: ebm@msh.law

CAO/CJG/dmm

FORM NLRB-502 (RC)
(4-15)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

RC PETITION

DO NOT WRITE IN THIS SPACE	
Case No. 28-RC-217964	Date Filed April 6, 2018

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlrb.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer	2b. Address(es) of Establishment(s) involved *(Street and number, city, State, ZIP code)*
Please see Attachment A	4321 W Flamingo Rd, Las Vegas, NV 89103

3a. Employer Representative – Name and Title	3b. Address (If same as 2b – state same)
Jon Gray	Same

3c. Tel. No.	3d. Cell No.	3e. Fax No.	3f. E-Mail Address
(702) 942-7001		(702) 942-7002	jon.gray@palms.com

4a. Type of Establishment *(Factory, mine, wholesaler, etc.)*	4b. Principal product or service	5a. *City and State where unit is located:*
Casino	Casino gaming/accomodation	Las Vegas, Nevada

5b. Description of Unit Involved	6a. No. of Employees in Unit:
Included: Please see Attachment B **Excluded:** Please see Attachment B	900 6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes [✓] No [ ]

Check One: [✓] 7a. Request for recognition as Bargaining Representative was made on (Date) _____ and Employer declined recognition on or about _____ (Date) *(If no reply received, so state)*. By this Petition

[ ] 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent *(If none, so state)*.	8b. Address

8c. Tel No.	8d Cell No.	8e. Fax No.	8f. E-Mail Address

8g. Affiliation, if any	8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any *(Month, Day, Year)*

9. Is there now a strike or picketing at the Employer's establishment(s) involved? _____ If so, approximately how many employees are participating? _____

(Name of labor organization) _____, has picketed the Employer since *(Month, Day, Year)* _____.

10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. *(If none, so state)*

10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.
		10e. Fax No.	10f. E-Mail Address

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.		11a. Election Type: [✓] Manual [ ] Mail [ ] Mixed Manual/Mail
11b. Election Date(s): April 25, 26 2018	11c. Election Time(s): 6am - 9am; 11am to 2pm; 4pm to 7pm	11d. Election Location(s): On-property meeting room

12a. Full Name of Petitioner *(Including local name and number)*	12b. Address *(street and number, city, state, and ZIP code)*
Local Joint Executive Board of Las Vegas	1630 S. Commerce St., Las Vegas, NV 89102

12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent *(if none, so state)*
UNITE HERE International Union

12d. Tel No.	12e. Cell No.	12f. Fax No.	12g. E-Mail Address
702-385-2131		702-386-9517	gkline@culinaryunion226.org

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title	13b. Address *(street and number, city, state, and ZIP code)*
Eric B. Myers, Attorney	595 Market Street, Suite 800, San Francisco, CA 94105

13c. Tel No.	13d. Cell No.	13e. Fax No.	13f. E-Mail Address
(415) 597-7200		415-597-7201	ebm@msh.law

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name *(Print)*	Signature	Title	Date
Eric B. Myers	E. B. Myers (ECW)	Attorney	4/5/2018

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

ATTACHMENT A

2a.

FP Holdings, L.P., Palms Place L.L.C. & PPII Holdings L.L.C., a single employer, *d/b/a* Palms Casino Resort.

ATTACHMENT B

5b.

Included:

All regular full time and regular part-time Banquet Captains, Banquet House Persons, Banquet Servers, Banquet Stewards, Bakers, Bar/Beverage Porters, Bartenders, Beverage/Cocktail Servers, Bus Persons, Concession Workers, Cooks, Cooks Helpers, Counter Attendants, Food Runners, Food Servers, Food Server Assistant, Gourmet Host/Cashiers, Guest Room Attendants, Host/Cashiers, House Persons, Kitchen Runners, Kitchen Workers, Kitchen Stewards, Lead Attendants, Lead Porter, Mini Bar, Pantry Workers, Pool Food & Beverage workers, Porters, Prep Cook, Room Runners, Room Service Servers, Room Service Cashiers, Service Bartenders, Sprinters, Status Board, Specialty Cook, Stove Cleaners, Team Member Dining Room Attendants, Uniform Room Attendants, Utility Porters, VIP Bartenders, VIP Hosts employed by the Employer at Palms Casino Resort (including the Palms Place Tower, Palms Ivory Tower and Palms Fantasy Tower).

Excluded:

All other employees employed by the Employer, including all Front Desk Employees, Bell Persons, Butlers, Valet Parkers, Housekeeping Supervisors, Gaming Employees (Dealers, Slot Attendants, Cage, Cashiers) Drivers, Engineering and Maintenance Employees, Lifeguards, Spa & Salon workers, Office Clerical Employees, Confidential Employees and all Supervisors, Guards and Managers as defined by the Act.

Form NLRB-5492
(Rev: 12-2015)

National Labor Relations Board

NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that Local Joint Executive Board of Las Vegas a/w UNITE HERE International Union has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 28-RC-217964 seeking an election to become certified as the representative of the employees of FP Holdings, L.P., Palms Place LLC & PPII Holdings LLC, a single employer, d/b/a Palms Casino Resort in the unit set forth below:

Included: All regular full time and regular part-time Banquet Captains, Banquet House Persons, Banquet Servers, Banquet Stewards, Bakers, Bar/Beverage Porters, Bartenders, Beverage/Cocktail Servers, Bus Persons, Concession Workers, Cooks, Cooks Helpers, Counter Attendants, Food Runners, Food Servers, Food Server Assistant, Gourmet Host/Cashiers, Guest Room Attendants, Host/Cashiers, House Persons, Kitchen Runners, Kitchen Workers, Kitchen Stewards, Lead Attendants, Lead Porter, Mini Bar, Pantry Workers, Pool Food & Beverage workers, Porters, Prep Cook, Room Runners, Room Service Servers, Room Service Cashiers, Service Bartenders, Sprinters, Status Board, Specialty Cook, Stove Cleaners, Team Member Dining Room Attendants, Uniform Room Attendants, Utility Porters, VIP Bartenders, VIP Hosts employed by the Employer at Palms Casino Resort (including the Palms Place Tower, Palms Ivory Tower and Palms Fantasy Tower).

Excluded: All other employees employed by the Employer, including all Front Desk Employees, Bell Persons, Butlers, Valet Parkers, Housekeeping Supervisors, Gaming Employees (Dealers, Slot Attendants, Cage, Cashiers) Drivers, Engineering and Maintenance Employees, Lifeguards, Spa & Salon workers, Office Clerical Employees, Confidential Employees and all Supervisors, Guards and Managers as defined by the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

YOU HAVE THE RIGHT under Federal Law

- **To self-organization**
- **To form, join, or assist labor organizations**
- **To bargain collectively through representatives of your own choosing**
- **To act together for the purposes of collective bargaining or other mutual aid or protection**
- **To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).**

PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. NO FINAL DECISIONS HAVE BEEN MADE YET regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing

is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- **Threatening loss of jobs or benefits by an employer or a union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return**
- **Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a union or an employer to influence their votes**

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to www.nlrb.gov or contact the NLRB at (702)388-6416.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.

National Labor Relations Board

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

FP HOLDINGS, L.P., PALMS PLACE LLC & PPII HOLDINGS LLC, A SINGLE EMPLOYER, d/b/a PALMS CASINO RESORT **Employer** **and** **LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS a/w UNITE HERE INTERNATIONAL UNION** **Petitioner**	**Case 28-RC-217964**

NOTICE OF REPRESENTATION HEARING

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 a.m. on **Monday, April 16, 2018** and on consecutive days thereafter until concluded, at the National Labor Relations Board offices located at the NLRB Hearing Room, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, FP Holdings, L.P., Palms Place LLC & PPII Holdings LLC, a single employer, d/b/a Palms Casino Resort must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **Noon** Pacific time on **Friday, April 13, 2018.** The Statement of Position may be E-Filed but, unlike other E-Filed documents, must be filed by noon Pacific on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position is not required to be filed.

Dated: April 6, 2018

Cornele A. Overstreet, Regional Director
National Labor Relations Board - Region 28

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

DESCRIPTION OF REPRESENTATION CASE PROCEDURES IN CERTIFICATION AND DECERTIFICATION CASES

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

Right to be Represented – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at www.nlrb.gov or forward it to the NLRB Regional Office handling the petition as soon as possible.

Filing and Service of Petition – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

Notice of Hearing – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews both the petition and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 8 days (excluding intervening federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position. Included with the Notice of Representation Hearing are a copy of the petition, this form, a Statement of Position form, a Notice of Petition for Election, and a letter advising how to contact the Board agent who will be handling the case and discussing those documents.

Hearing Postponement: The regional director may postpone the hearing for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request should be filed with the regional director. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

Statement of Position Form and List(s) of Employees – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. As part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department).

Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list

must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon on the business day before the opening of the hearing. The regional director may postpone the due date for filing and serving the Statement of Position for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. The Statement of Position form may be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion."

A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

Posting and Distribution of Notice of Petition for Election – Within 2 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically if the employer customarily communicates with its employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

Election Agreements – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

Hearing Cancellation Based on Agreement of the Parties – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

Hearing – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

Purpose of Hearing: The purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative. Disputes concerning individuals' eligibility to vote or inclusion in an appropriate unit ordinarily need not be litigated or resolved before an election is conducted.

Issues at Hearing: Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; and eligibility formulas. At the hearing, the Statement of Position will be received into evidence and, prior to the introduction of further evidence, all other parties will respond on the record to each issue raised in the Statement. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

Preclusion: At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

Conduct of Hearing: If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

Official Record: An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made in the hearing room will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

Motions and Objections: All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

Election Details: Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

Oral Argument and Briefs: Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be filed only upon special permission of the regional director and within the

time and addressing the subjects permitted by the regional director. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. If allowed, briefs should be double-spaced on 8½ by 11 inch paper. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. E-Filing of briefs through the Board's website, www.nlrb.gov, is encouraged, but not required. Facsimile transmission of briefs is NOT permitted.

Regional Director Decision - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 14 days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefore.

Voter List – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge.

The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction.

To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

Waiver of Time to Use Voter List – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

Election – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

Withdrawal or Dismissal – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM

Completing and Filing this Form: The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You may E-File your Statement of Position at www.nlrb.gov, but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

> **Note:** ***Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to complete items 3, 5, 6, and 8a-8e of the form.***

Required Lists: The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at **www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015**.

Consequences of Failure to Supply Information: Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

> A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

FORM NLRB-505
(4-15)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE	
Case No.	Date Filed
28-RC-217964	April 6, 2018

INSTRUCTIONS: *Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.*
Note: *Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.*

1a. Full name of party filing Statement of Position	1c. Business Phone:	1e. Fax No.:
1b. Address *(Street and number, city, state, and ZIP code)*	1d. Cell No.:	1f. e-Mail Address

2. Do you agree that the NLRB has jurisdiction over the Employer in this case? [ ] Yes [ ] No
(A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

3. Do you agree that the proposed unit is appropriate? [ ] Yes [ ] No *(If not, answer 3a and 3b)*

a. State the basis for your contention hat the proposed unit is not appropriate. (*If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards)*

b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.

Added	Excluded

4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contes ing their eligibility.

5. Is there a bar to conducting an election in this case? [ ] Yes [ ] No *If yes, state the basis for your position.*

6. Describe all other issues you intend to raise at the pre-election hearing.

The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at **www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015**.
A list containing the full names, work loca ions, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding he filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)
If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be *added* to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be *excluded* from the proposed unit to make it an appropriate unit. (Attachment D)

State your position with respect to the details of any election that may be conducted in this matter. 8a. Type: [ ] Manual [ ] Mail [ ] Mixed Manual/Mail

8b. Date(s)	8c. Time(s)	8d. Location(s)
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period [ ] Weekly [ ]Biweekly [ ] Other *(specify length)*

9. Representative who will accept service of all papers for purposes of the representation proceeding

9a. Full name and title of authorized representative	9b. Signature of authorized representative	9c. Date
9d. Address *(Street and number, city, state, and ZIP code)*		9e. e-Mail Address
9f. Business Phone No.:	9g. Fax No.	9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS STATEMENT OF POSITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U S C Section 151 et seq The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings The routine uses for the information are fully set forth in the Federal Register, 71 Fed Reg 74942-43 (December 13, 2006) The NLRB will further explain these uses upon request Failure to supply the information requested by this form may preclude you from litigating issues under 102 66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court

Revised 3/21/2011 NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 28-RC-217964

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

[ ] CORPORATION [ ] LLC [ ] LLP [ ] PARTNERSHIP [ ] SOLE PROPRIETORSHIP [ ] OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS *(Products handled or manufactured, or nature of services performed).*

7. A. PRINCIPAL LOCATION:	B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:	B. At the address involved in this matter:

9. DURING THE MOST RECENT ***(Check appropriate box):*** **[ ] CALENDAR YR [ ] 12 MONTHS or [ ] FISCAL YR** ***(FY dates)***

	YES	NO
A. Did you **provide services** valued in excess of $50,000 directly to customers outside your State? If no, indicate actual value. $		
B. If you answered no to 9A, did you **provide services** valued in excess of $50,000 to customers in your State who purchased goods valued in excess of $50,000 from directly outside your State? If no, indicate the value of any such services you provided. $_____		
C. If you answered no to 9A and 9B, did you **provide services** valued in excess of $50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than $50,000, indicate amount. $_____		
D. Did you **sell goods** valued in excess of $50,000 directly to customers located outside your State? If less than $50,000, indicate amount. $_____		
E. If you answered no to 9D, did you **sell goods** valued in excess of $50,000 directly to customers located inside your State who purchased other goods valued in excess of $50,000 from directly outside your State? If less than $50,000, indicate amount. $		
F. Did you **purchase and receive goods** valued in excess of $50,000 from directly outside your State? If less than $50,000, indicate amount. $_____		
G. Did you **purchase and receive goods** valued in excess of $50,000 from enterprises who received the goods directly from points outside your State? If less than $50,000, indicate amount. $_____		
H. **Gross Revenues** from all sales or performance of services ***(Check the largest amount)*** [ ] $100,000 [ ] $250,000 [ ] $500,000 [ ] $1,000,000 or more If less than $100,000, indicate amount.		
I. **Did you begin operations within the last 12 months?** If yes, specify date: _____		

10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

[ ] YES [ ] NO *(If yes, name and address of association or group).*

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE *(Type or Print)*	SIGNATURE	E-MAIL ADDRESS	DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

From:	(b) (6), (b) (7)(C)
To:	Shinners, Gary W.; Dreeben, Linda J.; Overstreet, Cornele; Oviedo, Elise F.; Robb, Peter; laboradam@aol.com; harriet.lipkin@dlapiper.com; kevin.harlow@dlapiper.com
Cc:	David Rosenfeld
Subject:	International Union of Operating Engineers Local 501, AFL-CIO v. NLRB, Case No. _____/Petition for Review
Date:	Thursday, April 19, 2018 12:26:42 PM
Attachments:	Operating Engineers Petition for Review.pdf

Attached is a copy of the Petition for Review filed by International Union of Operating Engineers Local 501, AFL-CIO in the above matter. The Petition was filed in the Ninth Circuit today. We will re-serve you and mail you copies of the Petition once we have the case number from the Ninth Circuit.

(b) (6), (b) (7)(C)
opeiu29 afl-cio(1)
(b) (6), (b) (7)(C) ***David A. Rosenfeld***
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway
Alameda, CA 94501-1091
510-337-1001 Phone
510-337-1023 Fax
(b) (6), (b) (7)(C) @unioncounsel.net

This message contains information which may be confidential or privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in or attached to the message. If you have received this message in error, please advise the sending by reply email to (b) (6), (b) (7)(C) @unioncounsel.net and delete the message.

CASE NO. _____

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO,

Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent,

ON APPEAL FROM NATIONAL LABOR RELATIONS BOARD CASE NO. 366 NLRB NO. 58, CASE 28-CA-214925

PETITION FOR REVIEW OF INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO

David A. Rosenfeld, Bar No. 058163
WEINBERG, ROGER & ROSENFELD
A Professional Corporation
1001 Marina Village Parkway, Suite 200
Alameda, California 94501
Telephone (510) 337-1001
Fax (510) 337-1023

Attorneys for Petitioner INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO

International Union of Operating Engineer Local 501, AFL-CIO, hereby petitions for review from the Decision and Order of the National Labor Relations Board, entitled *Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino and International Union of Operating Engineers Local 501, AFL-CIO*, issued as Case 366 NLRB No. 58. A copy of the Board's Decision and Order is attached as Exhibit A.

Dated: April 19, 2018

Respectfully Submitted,

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: */s/ David A. Rosenfeld*
David A. Rosenfeld

Attorneys for Petitioner
INTERNATIONAL UNION OF
OPERATING ENGINEERS LOCAL 501,
AFL-CIO

145074\964605

EXHIBIT A

NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino *and* International Union of Operating Engineers Local 501, AFL–CIO. Case 28–CA–214925

April 12, 2018

DECISION AND ORDER

BY CHAIRMAN KAPLAN AND MEMBERS MCFERRAN AND EMANUEL

This is a refusal-to-bargain case in which the Respondent is contesting the Union's certification as bargaining representative in the underlying representation proceeding. Pursuant to a charge filed by the International Union of Operating Engineers Local 501, AFL–CIO (the Union) on February 15, 2018, the General Counsel issued a complaint on February 22, 2018, alleging that Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino (the Respondent) has violated Section 8(a)(5) and (1) of the Act by refusing the Union's request to recognize and bargain following the Union's certification in Case 28–RC–203653. (Official notice is taken of the record in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(d). *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint and asserting affirmative defenses.

On February 28, 2018, the General Counsel filed a Motion for Summary Judgment. On March 1, 2018, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

The Respondent admits its refusal to bargain but contests the validity of the Union's certification on the basis of its contentions, raised and rejected in the underlying representation proceeding, that the employees in the petitioned-for unit are guards as defined in Section 9(b)(3) of the Act and that the Regional Director erred in refusing to ban the use of cell phones and other electronic devices within the voting area.[1]

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding.[2] We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent has been a limited liability company with an office and place of business in Henderson, Nevada, and has been engaged in operating a hotel and casino.

During the 12-month period ending February 15, 2018, the Respondent, in conducting its operations described above, purchased and received at the Respondent's facility goods valued in excess of $50,000 directly from points outside the State of Nevada and derived gross revenues in excess of $500,000.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Certification

Following the representation election held on August 25, 2017,[3] the Union was certified on October 16[4] as the

[1] The Respondent denies par. 5(a) of the complaint, which sets forth the appropriate unit. The unit issue, however, was fully litigated and resolved in the underlying representation proceeding. Accordingly, the Respondent's denial of the appropriateness of the unit does not raise any litigable issue in this proceeding. In addition, the Respondent advances an affirmative defense that could not have been raised in the representation proceeding: that the complaint fails to state a claim under the Act upon which relief can be granted. The Respondent has not offered any explanation or evidence to support this bare assertion. Thus, we find that this affirmative defense is insufficient to warrant denial of the General Counsel's motion for summary judgment in this proceeding. See, e.g., *George Washington University*, 346 NLRB 155, 155 fn. 2 (2005), enfd. 2006 WL 4639237 (D.C. Cir. 2006); *Circus Circus Hotel*, 316 NLRB 1235, 1235 fn. 1 (1995).

[2] The Respondent claims there are "special circumstances" in this case akin to those the Board found in *Brinks, Inc. of Florida*, 276 NLRB 1 (1985). In that case, the Board directed a hearing to determine whether the charging party union was affiliated with a union that admits to membership employees other than guards, a contention that had been overruled without a hearing in the representation case. Here, there has been a hearing on whether the unit employees are guards within the meaning of Section 9(b)(3) of the Act; the Respondent simply disagrees with the determination that they are not.

[3] All dates hereinafter are 2017 unless otherwise noted.

[4] By unpublished order dated November 30, the Board denied the Respondent's request for review.

exclusive collective-bargaining representative of the employees in the following appropriate unit:

> Included: all full-time, regular part-time, and extra board slot technicians and utility technicians employed by the employer at its Henderson, Nevada facility.
>
> Excluded: excluding all other employees, office clerical employees, guards, and supervisors as defined in the Act.

The Union continues to be the exclusive collective-bargaining representative of the unit employees under Section 9(a) of the Act.

B. Refusal to Bargain

Since at least October 31, the Union has requested that the Respondent recognize and bargain collectively with it as the exclusive collective-bargaining representative of the unit. Since November 6, the Respondent has failed and refused to do so.

We find that the Respondent's conduct constitutes an unlawful failure and refusal to recognize and bargain with the Union in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By failing and refusing since November 6 to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit employees, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); accord *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964).

ORDER

The National Labor Relations Board orders that the Respondent, Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino, Henderson, Nevada, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain with the International Union of Operating Engineers Local 501, AFL–CIO (the Union) as the exclusive collective-bargaining representative of the employees in the bargaining unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

> Included: all full-time, regular part-time, and extra board slot technicians and utility technicians employed by the employer at its Henderson, Nevada facility.
>
> Excluded: excluding all other employees, office clerical employees, guards, and supervisors as defined in the Act.

(b) Within 14 days after service by the Region, post at its facility in Henderson, Nevada, copies of the attached notice marked "Appendix."[5] Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since November 6, 2017.

[5] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(c) Within 21 days after service by the Region, file with the Regional Director for Region 28 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. April 12, 2018

Marvin E. Kaplan, Chairman

Lauren McFerran, Member

William J. Emanuel, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to recognize and bargain with the International Union of Operating Engineers Local 501, AFL–CIO (the Union) as the exclusive collective-bargaining representative of our employees in the bargaining unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the following appropriate bargaining unit:

> Included: all full-time, regular part-time, and extra board slot technicians and utility technicians employed by the employer at its Henderson, Nevada facility.
>
> Excluded: excluding all other employees, office clerical employees, guards, and supervisors as defined in the Act.

STATION GVR ACQUISITION LLC, D/B/A GREEN VALLEY RANCH RESORT SPA CASINO

The Board's decision can be found at https://www nlrb.gov/case/28-CA-214925 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

CERTIFICATE OF SERVICE

I am a citizen of the United States and an employee in the County of Alameda, State of California. I am over the age of eighteen years and not a party to the withing action; my business address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501.

I certify that on April 19, 2018, the **PETITION FOR REVIEW OF INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO** was served on all parties or their counsel of record by electronically mailing a true and correct copy through Weinberg, Roger & Rosenfeld's electronic mail system from kkempler@unioncounsel.net to the email addresses set forth below:

Gary Shinners
Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington, D.C. 20001
gary.shinners@nlrb.gov

Executive Secretary of National Labor Relations Board

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Attorneys for Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort and Spa Casino

I certify that the above is true and correct. Executed at Alameda, California, on April 19, 2018.

/s/ *Karen Kempler*
Karen Kempler

From:	Zayas, Christian D.
To:	harriet.lipkin@dlapiper.com; ebm@msh.law
Subject:	FP Holdings, L.P., d/b/a Palms Casino Resort / Case 28-RC-217964
Date:	Monday, April 23, 2018 5:48:49 PM
Attachments:	image001.png DDE.28-RC-217964.Decision and Direction of Election.pdf NEE.28-RC-217964.Notice of Election-Manual.pdf NEE.28-RC-217964.Notice of Election-Manual-Spanish .pdf NEE.28-RC-217964.Notice of Election-Manual-Amharic.pdf

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Please see the attached documents.

V/R

Christian D. Zayas
NATIONAL LABOR RELATIONS BOARD
Secretary to the Assistant Regional Director
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004-3099
(602)416-4772

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

FP HOLDINGS, L.P., d/b/a PALMS CASINO RESORT

Employer

and **Case 28-RC-217964**

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS a/w UNITE HERE INTERNATIONAL UNION

Petitioner

DECISION AND DIRECTION OF ELECTION

Local Joint Executive Board of Las Vegas a/w UNITE HERE International Union (Petitioner) seeks to represent a unit of all full-time and regular part-time employees employed by FP Holdings, L.P., d/b/a Palms Casino Resort (the Employer)[1] in Las Vegas, Nevada. There are currently approximately 831 employees in the petitioned-for unit, as amended.[2] The

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[1] At the hearing, the parties jointly moved to amend the petition to reflect that the correct name of the Employer is as reflected above. The parties' joint motion is hereby granted.

[2] At the hearing, Petitioner moved to amend paragraph 5b of the petition as follows:

> **Included:** All full-time and regular part-time Banquet Servers, Bakers, Bar/Beverage Porters, Bartenders, Banquet Bartenders, Banquet Porters, Beverage Servers, Bus Persons, Cooks, Cooks Helpers, Food Servers, Assistant Food Servers, Guest Room Attendants, Host/Cashiers, House Persons, Kitchen Workers, Lead Porters, Lead Banquet Porters, Mini Bar Attendants, Porters, Room Runners, Service Bartenders, Sprinters, Status Board, Specialty Cooks, Stove Persons, Team Member Dining Room Attendants, Uniform Room Attendants, Utility Porters, VIP Bartenders, and VIP Bar Hosts employed by the Employer at its facility in Las Vegas, Nevada.
>
> **Excluded:** All other employees employed by the Employer, including Banquet Captains, Bell Persons, Butlers, Valet Parkers, Housekeeping Supervisors, Gaming Employees (including, but not limited to Dealers, Slot Attendants, Cage, and Cashiers), Drivers, Front Desk Employees, Engineering and Maintenance Employees, Lifeguards, Spa & Salon workers, Temporary Pool Food & Beverage workers, Office Clerical Employees, Confidential Employees and all Guards, Managers and Supervisors as defined by the Act.

According to Petitioner, it moved to amend the petition to exclude "Banquet Captains" and the "Temporary Pool Food & Beverage workers" because it withdrew its request to represent employees occupying both excluded classifications. The Employer stipulated it did not object to Petitioner's motion to amend paragraph 5b of the petition. I grant Petitioner's unopposed motion to amend paragraph 5b of the petition as set forth above. However, as explained below, I have decided that it is appropriate for me to permit the approximately 14 individuals in the job classifications that Petitioner amended its petition to exclude to vote subject to challenge, so that the total number of

Employer maintains that the petition should be dismissed as premature because the Employer has not yet hired a substantial and representative complement of employees in the petitioned-for unit.

A hearing officer of the Board held a hearing in this matter, and the parties orally argued their respective positions prior to the close of the hearing. As explained below, based on the record and relevant legal authority, I find that the evidence establishes that the Employer employs a substantial and representative complement of employees in the petitioned-for unit, as amended, and that it is therefore appropriate for me to direct an election.

I. FACTS

A. History of the Employer's Operations

The Employer is engaged in operating the Palms Casino Resort (the Palms) in Las Vegas, Nevada, providing food, lodging, entertainment and gaming. The record evidence reflects that Palms opened around September 2001, and was acquired by Station Casinos LLC around October 1, 2016. The record reveals that the Palms is comprised of three buildings: Ivory Tower, Fantasy Tower, and Palms Place. Ivory Tower and Fantasy Tower are the Palms' main hotel and villas, connected as one continuous building. Palms Place is a condominium and small hotel tower connected to Ivory Tower and Fantasy Tower by a sky tube. The Palms is located off of the Las Vegas Strip and does not get as much foot traffic as Las Vegas Strip properties. The Employer estimates that the Palms currently has between 2,500 and 3,000 visitors per day.

B. The Employer's Operating Plans for the Palms

The Employer contends that since approximately October 2016, it has been undergoing upgrades and renovations to the Palms that it expects to continue through the third quarter of 2019. By the end of the third quarter of 2019, the Employer anticipates having hired approximately 273 new employees occupying positions it agrees would be appropriately included in the petitioned-for unit, as amended. At the hearing, the Employer's sole witness, its Food and Beverage Director, estimated that, of these new employees, approximately 200 would occupy food and beverage positions and approximately 73 would occupy housekeeping and internal maintenance positions.[3]

The record evidence indicates that the Employer forecasts hiring approximately 100 of these new employees during the second quarter of 2018, approximately 33 of these new employees during the third quarter of 2018, and approximately 29 of these new employees during the fourth quarter in 2018. The record further reveals that the Employer foresees hiring

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employees in the petitioned-for unit plus employees being permitted to vote subject to challenge is approximately 845.

[3] The Employer's Food and Beverage Director has been working for the Employer since October 1, 2016.

approximately 86 new employees during the first quarter of 2019 and approximately 25 new employees during the third quarter of 2019.[4]

Specifically, the Employer projects that by the end of 2019, the Palms will:

- open a new steakhouse called "Scotch 80" that will be operated by the Palms, adding approximately 71 new employees;
- open "Center Bar" and another casino floor bar, adding at least 25 new employees;
- add premium, ultra-luxury suites and approximately 60 new guestrooms, adding at least 36 new employees;
- upgrade and expand its casino space, adding approximately 27 new employees;
- revamp and expand its catering spaces, adding approximately 33 new employees;
- renovate its Team Member Dining Room;
- open a new spa & salon; and
- open a number of new restaurant, bar and club concepts.

The Employer expects that by the end of its expansion in 2019, it will have approximately 8,000 to 10,000 visitors per day.

C. Job Classifications Included in the Petitioned-For Unit

The record reveals that there are currently approximately 831 employees occupying approximately 31 job classifications included in the petitioned-for unit. According to the Employer, by the end of third quarter of 2019, it intends to add 5 new job classifications that would be included in the petitioned-for unit, including: Steakhouse Captains, VIP Beverage Attendants, Bakers 1, Bakers 2, and Bakers 3 (collectively, "new job classifications"). The Employer's witness testified that it hired approximately 30 employees occupying these new job classifications around April 16, 2018. The Employer's witness conceded that the employees who currently occupy (and employees who will occupy) these new job classifications are subject to the same and/or similar terms and conditions of employment and working conditions as the employees in the petitioned-for unit, as amended.

[4] There is no record evidence reflecting the number of new employees the Employer expects to hire during the second quarter of 2019.

D. Job Classifications Excluded from the Petitioned-For Unit

The record reveals there are currently approximately 14 individuals occupying four job classifications excluded from the petitioned-for unit. One of these job classifications is Banquet Captain.[5] The other three job classifications are Model Bar Porters, Model Bartenders, and Model Beverage Servers (collectively, "Pool Food & Beverage workers").[6] As indicated above, at the hearing, Petitioner moved to amend its petition to exclude "Banquet Captains" and "Temporary Pool Food & Beverage workers." Petitioner simply stated that it was withdrawing its request to represent employees occupying both excluded classifications. The Employer stipulated that the petitioned-for unit, as amended, as appropriate.

In the Employer's position statement, it argues that Banquet Captains "assign and responsibly direct the work of bargaining team members" and therefore are "statutory supervisors" who "must be excluded from the unit." However, the record does not contain any actual evidence to support the Employer's assertion that Banquet Captains possess such supervisory authority, or its legal conclusion that Banquet Captains are therefore supervisors under Section 2(11) of the Act.

Likewise, in the Employer's position statement, it argues that its Pool Food & Beverage workers are "temporary employees" whose "employment will terminate in late October 2018, with the closure of the pool." The Employer further asserts that its Pool Food & Beverage workers are "free to re-apply for employment" but they are "not placed on a layoff/recall list that would suggest any expectation of continued employment." However, there is no record evidence to support the Employer's assertions or its legal conclusion that its Pool Food & Beverage workers are, in fact, temporary employees.

E. The Complement of Employees Currently Employed in Job Classifications Included in the Petitioned-For Unit

The record evidence establishes that the Employer currently employs a total of approximately 831 employees in the petitioned-for unit, as amended. If the Banquet Captains and Pool & Beverage workers were also included in the unit, the Employer would currently employ a total of approximately 845 employees in the unit. The record reveals that the Employer anticipates hiring approximately 273 new employees who will occupy positions included in the petitioned-for unit, as amended. Based on these estimates provided by the Employer, the Employer currently employs more than 30 percent of the eventual employee complement that will comprise the unit.

Further, the record evidence shows that the Employer currently employs employees in a total of approximately 35 job classifications in the petitioned-for unit, as amended. If Banquet Captains and Pool & Beverage workers were also included in the unit, the Employer would currently employ employees in a total of approximately 39 job classifications in the unit. The

[5] There is only one employee in this classification

[6] There are two Model Bar Porters, four Model Bartenders, and seven Model Beverage Servers.

record reveals the Employer plans to add approximately 5 new job classifications by the end of 2019. Based on these estimates provided by the Employer, the Employer currently employs employees in more than 50 percent of the anticipated job classifications.

II. ANALYSIS

A. Relevant Legal Authority

In assessing whether a petition should be dismissed as premature because an employer has not yet hired a substantial and representative complement of employees in the petitioned-for unit, the Board assesses whether "the present work complement" is "substantial and representative of the ultimate complement as projected both as to the number of employees and the number and kind of classifications." *MJM Studios*, 336 NLRB 1255, 1256 (2001), citing *Douglas Motors Corp.,* 128 NLRB 307, 308 (1960). This policy seeks to avoid depriving current employees of the right to select or reject a bargaining representative while not imposing a bargaining representative on a large number of employees hired in the near future based on the vote of a few currently employed individuals. *Toto Industries (Atlanta)*, 323 NLRB 645 (1997).

The Board generally finds an existing complement of employees substantial and representative when at least 30 percent of the eventual employee complement is employed in 50 percent of the anticipated job classifications. *Shares, Inc.*, 343 NLRB 455, 455 fn. 2 (2004); *Yellowstone International Mailing*, 332 NLRB 386 (2000); *Custom Deliveries*, 315 NLRB 1018, 1019 fn. 8 (1994). However, the Board considers a variety of factors, including the size of the present work force at the time of the hearing, the size of the employee complement eligible to vote, the size of the expected ultimate employee complement, the time expected to elapse before a full work force is present, the time and size of projected interim hiring increases before reaching a full complement, the number of job classifications requiring different skills that are currently filled and that are expected to be filled when the ultimate complement is reached, and the nature of the industry. *Toto Industries (Atlanta)*, 323 NLRB 645. A planned expansion is only pertinent to the extent that it occurs within the petitioned-for bargaining unit, assuming it is a separate appropriate unit. *Yellowstone International Mailing*, 332 NLRB 386; *Bekaert Steel Wire Corp.*, 189 NLRB 561, 561 (1971). Mere speculation as to the expansion of future operations is not sufficient to warrant dismissing a petition. *Gerlach Meat Co.*, 192 NLRB 559 (1971); *Bekaert Steel Wire Corp.*, 189 NLRB at 561; *KeyResearch & Development Co.*, 176 NLRB 134 (1969); *Meramec Mining Co.*, 134 NLRB 1675, 1679-80 (1962); *General Engineering, Inc.*, 123 NLRB 586, 589 (1959).

B. Application

Applying the standards set forth above, I find that the evidence establishes that the Employer employs a substantial and representative complement of employees both in the petitioned-for unit, as amended, and in a unit including both employees in the petitioned-for unit, as amended, and the individuals being permitted to vote subject to challenge, and that it is therefore appropriate for me to direct an election.

As set forth above, based on estimates provided in the record, the Employer currently employs more than 30 percent of the eventual employee complement. Further, based on estimates provided in the record, the Employer currently employs employees in more than 50 percent of the anticipated job classifications. I therefore find that the Employer employs a substantial and representative complement of employees.

C. The Banquet Captains and Pool Food & Beverage Workers Should Be Permitted to Vote Subject to Challenge.

Sections 11187.2 and 11189(f) of the NLRB Casehandling Manual (Part Two) Representation Proceedings (January 2017) provide the following dictates regarding prehearing stipulations:

> **11187.2 Prehearing Preparation of Stipulations**
>
> * * *
>
> **Contents of Stipulations:** Care should be taken that the contents of stipulations are not so conclusory that the regional director or the Board might hesitate or be unable to adopt and follow them without "primary" foundation. For example, a stipulation that the Agency has jurisdiction over the parties is of no use without a recital of supporting commerce facts.
>
> **11189 Checklist**
>
> * * *
>
> (f) Off the record, possibilities of stipulations not already obtained as to commerce, labor organization, question concerning representation, bargaining history, composition of the bargaining unit, seasonality, etc., and any other issues that may not be in serious dispute should be further explored. If attained, factual agreements should be incorporated into stipulations and put on the record; it is unnecessary to receive, as exhibits, copies of correspondence or records if a factual stipulation gives all necessary information. Sec. 11187.2 discusses the care that should be taken with regard to the contents of stipulations and the joinder thereto of parties.

Based upon this guidance, I am unable to adopt the parties' stipulation to exclude "Banquet Captains" and "Temporary Pool Food & Beverage workers" from the petitioned-for unit, without the necessary "primary" foundation to support the parties' stipulation. As stated above, the record lacks any actual evidence to support the Employer's assertion that Banquet Captains are supervisors under Section 2(11) of the Act. The burden of establishing supervisory status rests on the party asserting that status, *NLRB v. Kentucky River Community Care, Inc.*, 532 U.S. 706, 711–712 (2001), and the Board has a duty not to construe the statutory language too broadly because the individual found to be a supervisor is denied the rights protected under the Act. See *St. Francis Medical Center-West*, 323 NLRB 1046, 1047 (1997); *Hydro Conduit Corp.*, 254 NLR 433, 437 (1981).

Similarly, there is no record evidence to support the Employer's assertion that its Pool Food & Beverage workers are temporary employees. The test for determining the eligibility of individuals designated as temporary employees is whether they have an uncertain tenure. *Marian Medical Center*, 339 NLRB 127 (2003). If the tenure of the disputed individuals is indefinite or uncertain and they are otherwise eligible, they are permitted to vote. *Personal Products Corp.*, 114 NLRB 959, 960 (1955); *Lloyd A. Fry Roofing Co.*, 121 NLRB 1433, 1438 (1958); *United States Aluminum Corp.*, 305 NLRB 719 (1991); *NLRB v. New England Lithographic Co.*, 589 F.2d 29, 32 (1st Cir. 1978). Since there is no record evidence for me to determine whether Banquet Captains or Pool Food & Beverage workers should appropriately be included in or excluded from the petitioned-for unit, I direct that the Banquet Captains and the Pool Food & Beverage workers be permitted to vote subject to challenge.

III. CONCLUSION

For the foregoing reasons, I conclude that the evidence establishes that the Employer has hired a substantial and representative complement of employees in the petitioned-for unit, as amended, and that it is therefore appropriate for me to direct an election. Based upon the entire record in this matter, including the parties' stipulations at hearing, and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.[7]

3. Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:[8]

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[7] I find, based on the stipulations of the parties and the record evidence, that the Employer, FP Holdings, L.P., d/b/a Palms Casino Resort, a Nevada partnership with an office and place of business in Las Vegas, Nevada, is engaged in operating a hotel and casino providing food, lodging, entertainment and gaming. During the 12-month period ending April 6, 2018, the Employer, in conducting its business operations described above, purchased and received at its facility goods valued in excess of $50,000 directly from points outside the State of Nevada. During the 12-month period ending April 6, 2018, the Employer derived gross revenues in excess of $500,000.

[8] At hearing, the parties stipulated that the petitioned-for unit, as amended, constituted an appropriate unit for collective bargaining.

Included: All full-time and regular part-time Banquet Servers, Bakers, Bar/Beverage Porters, Bartenders, Banquet Bartenders, Banquet Porters, Beverage Servers, Bus Persons, Cooks, Cooks Helpers, Food Servers, Assistant Food Servers, Guest Room Attendants, Host/Cashiers, House Persons, Kitchen Workers, Lead Porters, Lead Banquet Porters, Mini Bar Attendants, Porters, Room Runners, Service Bartenders, Sprinters, Status Board, Specialty Cooks, Stove Persons, Team Member Dining Room Attendants, Uniform Room Attendants, Utility Porters, VIP Bartenders, and VIP Bar Hosts employed by the Employer at its facility in Las Vegas, Nevada.

Excluded: All other employees employed by the Employer, including Bell Persons, Butlers, Valet Parkers, Housekeeping Supervisors, Gaming Employees (including, but not limited to Dealers, Slot Attendants, Cage, and Cashiers), Drivers, Front Desk Employees, Engineering and Maintenance Employees, Lifeguards, Spa & Salon workers, Office Clerical Employees, Confidential Employees and all Guards, Managers and Supervisors as defined by the Act.

Others Permitted to Vote: The Regional Director has directed that Banquet Captains, Model Bar Porters, Model Bartenders, and Model Beverage Servers may vote in the election but their ballots will be challenged since their eligibility has not been resolved. No decision has been made regarding whether the individuals in these classifications or groups are included in, or excluded from, the bargaining unit. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election

IV. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS a/w UNITE HERE INTERNATIONAL UNION.

A. Election Details

Following the hearing in this matter, the parties agreed and I direct that the election will be held on Friday, April 27, 2018 and Saturday, April 28, 2018, from 6:00 a.m. to 9:00 a.m., from 11:00 a.m. to 2:00 p.m., and from 4:00 p.m. to 7:00 p.m., at the Grand Ballroom on the second floor of the Fantasy Tower at the Employer's facility located at 4321 W. Flamingo Road, Las Vegas, Nevada.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **April 8, 2018**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible to vote are all employees in the unit who have

worked an average of four (4) hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.[9]

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classifications whose eligibility remains unresolved as specified above and in the Notice of Election.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the Regional Director and the parties by **Wednesday, April 25, 2018**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be

[9] The Employer contends that certain catering employees occupying positions that are included in the petitioned-for unit, are ineligible to vote under the under the *Davison-Paxon* standard because each "has not averaged 4 hours or more per week for the last quarter prior to the eligibility date." *Davison-Paxon Co.,* 185 N.L.R.B. 21, 24 (1970). The record reflects that there are approximately 47 employees the Employer asserts occupy such positions, including Banquet Servers, Banquet Bartenders, Banquet Porters, and Lead Banquet Porters. At the hearing, the parties were unable to reach a stipulation agreeing that employees occupying such positions would vote subject to challenge. The hearing officer therefore deferred this issue to post-election proceedings, if necessary. As a reminder, the Employer's election observer(s) is/are free to challenge any such voters on this basis at the election, as appropriate.

used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.[10]

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the non-posting of notices if it is responsible for the non-posting, and likewise shall be estopped from objecting to the non-distribution of notices if it is responsible for the non-distribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not

[10] Following the hearing in this matter, Petitioner informed the Regional Office in writing that, in order to proceed to an election in this case at an earlier date, it wished to waive its right to file objections to the election based on the fact that it did not have the voter list for the full 10 days before the election, contingent upon its having the voter list for zero (0) days before the start of the election.

precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Phoenix, Arizona, this 23rd day of April, 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by SECRET ballot under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violations of these rules should be reported immediately to an NLRB agent. Your attention is called to Section 12 of the National Labor Relations Act which provides: ANY PERSON WHO SHALL WILLFULLY RESIST, PREVENT, IMPEDE, OR INTERFERE WITH ANY MEMBER OF THE BOARD OR ANY OF ITS AGENTS OR AGENCIES IN THE PERFORMANCE OF DUTIES PURSUANT TO THIS ACT SHALL BE PUNISHED BY A FINE OF NOT MORE THAN $5,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off, and also include employees in the military service of the United States who appear in person at the polls. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are *not* eligible to vote.

SPECIAL ASSISTANCE: Any employee or other participant in this election who has a handicap or needs special assistance such as a sign language interpreter to participate in this election should notify an NLRB Office as soon as possible and request the necessary assistance.

PROCESS OF VOTING: Upon arrival at the voting place, voters should proceed to the Board agent and identify themselves by stating their name. The Board agent will hand a ballot to each eligible voter. Voters will enter the voting booth and mark their ballot in secret. DO NOT SIGN YOUR BALLOT. Fold the ballot before leaving the voting booth, then personally deposit it in a ballot box under the supervision of the Board agent and leave the polling area.

CHALLENGE OF VOTERS: If your eligibility to vote is challenged, you will be allowed to vote a challenged ballot. Although you may believe you are eligible to vote, the polling area is not the place to resolve the issue. Give the Board agent your name and any other information you are asked to provide. After you receive a ballot, go to the voting booth, mark your ballot and fold it so as to keep the mark secret. DO NOT SIGN YOUR BALLOT. Return to the Board agent who will ask you to place your ballot in a challenge envelope, seal the envelope, place it in the ballot box, and leave the polling area. Your eligibility will be resolved later, if necessary.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the voting place and at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

All full-time and regular part-time Banquet Servers, Bakers, Bar/Beverage Porters, Bartenders, Banquet Bartenders, Banquet Porters, Beverage Servers, Bus Persons, Cooks, Cooks Helpers, Food Servers, Assistant Food Servers, Guest Room Attendants, Host/Cashiers, House Persons, Kitchen Workers, Lead Porters, Lead Banquet Porters, Mini Bar Attendants, Porters, Room Runners, Service Bartenders, Sprinters, Status Board, Specialty Cooks, Stove Persons, Team Member Dining Room Attendants, Uniform Room Attendants, Utility Porters, VIP Bartenders, and VIP Bar Hosts employed by the Employer at its facility in Las Vegas, Nevada, during the payroll period ending April 8, 2018.

EMPLOYEES NOT ELIGIBLE TO VOTE:

All other employees employed by the Employer, including Bell Persons, Butlers, Valet Parkers, Housekeeping Supervisors, Gaming Employees (including, but not limited to Dealers, Slot Attendants, Cage, and Cashiers), Drivers, Front Desk Employees, Engineering and Maintenance Employees, Lifeguards, Spa & Salon workers, Office Clerical Employees, Confidential Employees and all Guards, Managers and Supervisors as defined by the Act.

Others permitted to vote: At this time, no decision has been made regarding whether Banquet Captains, Model Bar Porters, Model Bartenders, and Model Beverage Servers are included in, or excluded from, the bargaining unit, and individuals in those classifications may vote in the election but their ballots shall be challenged since their eligibility has not been determined. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

DATES, TIMES AND PLACE OF ELECTION

Dates:	Times:	Place:
Friday, April 27, 2018 Saturday, April 28, 2018	6:00 a.m. to 9:00 a.m. 11:00 a.m. to 2:00 p.m 4:00 p.m. to 7:00 p.m	The Grand Ballroom on the second floor of the Fantasy Tower at the Employer's facility 4321 West Flamingo Road, Las Vegas, NV

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

EMPLOYEES ARE FREE TO VOTE AT ANY TIME THE POLLS ARE OPEN.
ALL BALLOTS WILL BE MINGLED AND COUNTED IMMEDIATELY AFTER THE CONCLUSION OF THE LAST VOTING SESSION.

UNITED STATES OF AMERICA
ESTADOS UNIDOS DE AMERICA
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National Labor Relations Board
Junta Nacional De Relaciones Del Trabajo
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28-RC-217964

28-አር ሲ -217964

OFFICIAL SECRET BALLOT
PAPELETA SECRETA OFICIAL
የታወቀ የምስጢር ኮሮጆ

For certain employees of
Para Ciertos Empleados De
ለታወቁ ሰራተኞች

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT

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Do you wish to be represented for purposes of collective bargaining by
¿Desea usted estar representado para los fines de negociar colectivamente por
ለቡድን ድርድር ዓላማ ሲባል እንዲወከሉ ይፈልጋሉ ?

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS A/W UNITE HERE INTERNATIONAL UNION?

የላስቬጋስ የተቀናጀ ጠቅላይ ቦርድ

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MARK AN "X" IN THE SQUARE OF YOUR CHOICE
MARQUE CON UNA "X" DENTRO DEL CUADRO DE SU SELECCIÓN
ምርጫዎን X የሚለውን ማርክ ያድርጉ

YES SI አዎ	NO NO አይደለም
☐	☐

Sample

DO NOT SIGN THIS BALLOT. Fold and drop in the ballot box.
NO FIRME ESTA PAPELETA. Dóblela y deposítela en la urna electoral.
እዚ ድምጽ መስጫ ላይ አይፈርሙ። ሞልተው ሲጨርሱ አጣጥፈው ወደ ሚስጥር ኮሮጆው ውስጥ ይጣሉ።

If you spoil this ballot, return it to the Board Agent for a new one.
Si usted daña esta papeleta devuélvala al Agente de la Junta y pídale una nueva.
ይህ ወረቀት ከተበላሸቦት ለቦርዱ ይመልሱና ሌላ ይቀበሉ።

The National Labor Relations Board does not endorse any choice in this election
Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board
በዚህ ሀገር ውስጥ ብሔራዊ የሰራተኛ ግንኙነት ቦርድ በዚህ ምርጫ ምንም አይወከልም።በማንኛውም የናሙና የምርጫ ማቅረቢያ

La Junta Nacional de Relaciones del Trabajo no respalda a ninguna de las opciones en esta elección
Cualquier marca que se pueda ver en cualquier muestra de la papeleta no fue hecha por la Junta Nacional de Relaciones del Trabajo
ላይ ሊያዩ የሚችሉ ማናቸውም ማርከሮች በብሔራዊ የሰራተኛ ግንኙነት ቦርድ አልተቀመጠም.

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Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- **Form, join, or assist a union**
- **Choose representatives to bargain with your employer on your behalf**
- **Act together with other employees for your benefit and protection**
- **Choose not to engage in any of these protected activities**
- **In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).**

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- **Threatening loss of jobs or benefits by an Employer or a Union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched in a mail ballot election**
- **Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a Union or an Employer to influence their votes**

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (702)388-6416 or visit the NLRB website www.nlrb.gov for assistance.

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(4-2015)

Estados Unidos de América
Junta Nacional de Relaciones del Trabajo

AVISO DE ELECCION

<u>OBJETIVO DE LA ELECCION</u>: Esta elección es para determinar quién es el representante deseado por los empleados, si hubiese alguno, con el propósito de negociar colectivamente con su empleador. La mayoría de los votos válidos emitidos determinaran los resultados de la elección. En un período de 12 meses, solamente se podrá celebrar una elección válida de representación.

<u>VOTO SECRETO</u>: La elección será por papeleta de votación SECRETA bajo la supervisión del Director Regional de la Junta Nacional de Relaciones del Trabajo (JNRT). Una muestra de la papeleta oficial de votación se exhibe en la siguiente página de este Aviso. Los votantes podrán votar sin interferencia, impedimento o amenaza. No se permitirán campañas electorales en el centro de votación o sus alrededores. Las violaciones de estas reglas deberán ser reportadas inmediatamente a un agente de la JNRT. Se requiere su atención a la Sección 12 de la Ley Nacional de Relaciones del Trabajo que indica: CUALQUIER PERSONA QUE DELIBERADAMENTE SE OPONGA, PREVENGA, IMPIDA O INTERFIERA CON CUALQUIER MIEMBRO DE LA JUNTA O CUALESQUIERA DE SUS AGENTES O AGENCIAS EN EL DESEMPEÑO DE SUS FUNCIONES CONFORME A ESTA LEY, SERA CASTIGADA CON UNA MULTA QUE NO EXCEDA $5,000 DOLARES AMERICANOS, O ENCARCELAMIENTO QUE NO EXCEDA UN AÑO, O AMBOS.

<u>REGLAS DE ELEGIBILIDAD</u>: Los empleados elegibles para votar son aquellos que son descritos conforme a la UNIDAD DE VOTACION en la página siguiente, que incluye empleados que no trabajaron durante el periodo de la nomina de sueldos designada, porque ellos estaban enfermos o en vacaciones, o temporalmente descansados, y también se incluye a empleados en el servicio militar de los Estados Unidos que se presenten al lugar de la votación. NO son elegibles para votar, los empleados que renunciaron o fueron despedidos con causa, desde el período de la nómina de sueldos designada, y que no han sido recontratados o reintegrados antes de la fecha de esta elección.

<u>ASISTENCIA ESPECIAL</u>: Cualquier empleado u otro participante en esta elección que tenga una discapacidad, y que para participar requiera una asistencia especial, por ejemplo de un intérprete de lenguaje de señas, deberá comunicarse lo antes posible con una Oficina de la JNRT para solicitar la asistencia necesaria.

<u>EL PROCESO DE LA VOTACION</u>: Al llegar al lugar de la votación, los votantes deberán dirigirse al agente de la Junta e identificarse dando su nombre. El agente de la Junta entregará una papeleta de votación a cada uno de los votantes que sean elegibles. Los votantes entrarán a la caseta de votación y marcaran sus papeletas de votación en secreto. NO FIRME SU PAPELETA DE VOTACION. Doble la papeleta de votación antes de salir de la caseta de votación, luego personalmente deposítela en la urna electoral bajo la supervisión del agente de la Junta, y retírese del área de votación.

<u>IMPUGNACION DE VOTANTES</u>: Si se impugna su elegibilidad para votar, se le va a permitir votar con una papeleta impugnada. Aunque usted crea que sea elegible para votar, el área de la votación no es el lugar para resolver este asunto. Proporcione al agente de la Junta su nombre y cualquier otra información que se le pida. Después que usted reciba una papeleta de votación, vaya a la caseta de votación, marque su papeleta de votación y dóblela para poder mantener en secreto lo que marco. NO FIRME SU PAPELETA DE VOTACION. Regrese adonde esta el agente de la Junta quien le pedirá que coloque su papeleta de votación en un sobre impugnado; selle el sobre; colóquelo dentro de la urna electoral y retírese del área de votación. El asunto sobre su elegibilidad se resolverá más tarde, si fuese necesario.

<u>OBSERVADORES AUTORIZADOS</u>: Cada una de las partes podrá designar un número igual de observadores; este número será determinado por la JNRT. Estos observadores (a) actúan como controladores en el lugar de la votación y durante el conteo de las papeletas de votación; (b) ayudan a identificar a votantes; (c) impugnan votantes y papeletas y (d) ayudan de otras maneras a la JNRT.

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Estados Unidos de América
Junta Nacional de Relaciones del Trabajo

AVISO DE ELECCION

UNIDAD DE VOTACION

EMPLEADOS ELEGIBLES PARA VOTAR:

Todos los Servidores de Banquete, Pasteleros, Mozos de Bar/Bebidas, Cantineros, Cantineros de Banquete, Mozos de Banquetes, Servidores de Bebidas, Camareros, Cocineros, Ayudantes de Cocineros, Servidores de Comida, Ayudantes de Servidores de Comida, Asistentes de Cuartos de Huéspedes, Anfitriones/Cajeros, Personal de la Casa, Trabajadores de Cocina, Jefes de Mozos, Jefes de Mozos de Banquetes, Asistentes de Mini Bar, Mozos, Corredores de Cuarto, Cantineros de Servicio, Corredores, Tablero de Estatus, Cocineros Especializados, Personal de Estufa, Asistentes del Comedor de Miembros de Equipo, Asistentes de Cuarto de Uniformes, Mozos de Utilidad, Cantineros VIP y Anfitriones del Bar VIP quienes trabajan de tiempo completo y regularmente de tiempo parcial, empleados por el Empleador en su s instalaciones en Las Vegas, Nevada durante el período de pago concluido el 8 de abril de 2018.

EMPLEADOS NO ELEGIBLES PARA VOTAR:

Todos los otros empleados, empleados por el Empleador incluyendo Personas de Campana, Mayordomos, Personal de Valet, Supervisores de Limpieza, Empleados de Juego, (incluyendo pero no limitados a Agentes, Asistentes de Slot, Jaulas y Cajeros), Choferes, Empleados de Recepción, Empleados de Ingeniería y Mantenimiento, Salvavidas, Trabajadores de Spa y Salón, Empleados de Oficina, Empleados Confidenciales, y todos los Guardias, Managers y Supervisores como se definen en la Ley.

OTROS QUE PUEDEN VOTAR:

Hasta este momento no se ha llegado a una decisión si los Capitanes de Banquetes, Mozos del Bar Model, Cantineros de Model, y Servidores de Bebidas Model están siendo incluidos o no en la unidad negociadora, los individuos en estas clasificaciones podrán votar durante la elección pero sus balotas serán objetadas debido a que su elegibilidad no ha sido determinada. La elegibilidad o inclusión de estos individuos será resuelta, si así fuera necesario, después de la elección.

FECHAS, HORAS Y LUGAR DE VOTACION

Fechas:	**Horas:**	**Lugar De Votación:**
Viernes, 27 de abril de 2018 Sábado, 28 de abril de 2018	6:00 a.m. a 9:00 a.m. 11:00 a.m. a 2:00 p.m. 4:00 p.m. a 7:00 p.m.	El Grand Ballroom del segundo piso de la Fantasy Tower en las instalaciones del Empleador en 4321 West Flamingo Road, Las Vegas, NV

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Estados Unidos de América
Junta Nacional de Relaciones del Trabajo

AVISO DE ELECCION

LOS EMPLEADOS SON LIBRES DE VOTAR EN CUALQUIER MOMENTO EN QUE LOS CENTROS DE VOTACIÓN ESTEN ABIERTOS. SE MEZCLARÁN Y SE CONTARÁN TODAS LAS BOLETAS DESPUÉS DE QUE TERMINE LA ÚLTIMA SESIÓN DE VOTACIÓN.

UNITED STATES OF AMERICA
ESTADOS UNIDOS DE AMERICA
የአሜሪካ መንግስት
National Labor Relations Board
Junta Nacional De Relaciones Del Trabajo
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ

28-RC-217964
28-አር ሲ -217964

OFFICIAL SECRET BALLOT
PAPELETA SECRETA OFICIAL
የታወቀ የምስጢር ኮሮጆ

For certain employees of
Para Ciertos Empleados De
ለታወቁ ሰራተኞች

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT
ኤፍ ሆልዲንጎች፣ ኤል ፒ. ዲ/ቢ/ኤ ፓልምስ የካሲኖ ሪዞርት

Do you wish to be represented for purposes of collective bargaining by
¿Desea usted estar representado para los fines de negociar colectivamente por
ለቡድን ድርድር ዓላማ ሲባል እንዲወከሉ ይፈልጋሉ ?

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS A/W UNITE HERE INTERNATIONAL UNION?

የላስቬጋስ የተቀናጀ ጠቅላይ ቦርድ

መቀላቀል ይፈልጋሉ አለም አቀፉን ህብረት?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE
MARQUE CON UNA "X" DENTRO DEL CUADRO DE SU SELECCIÓN
ምርጫዎን X የሚለውን ማርክ ያድርጉ

YES SI አዎ	NO NO አይደለም
☐	☐

Muestra

DO NOT SIGN THIS BALLOT. Fold and drop in the ballot box.
NO FIRME ESTA PAPELETA. Dóblela y deposítela en la urna electoral.
እዚ ድምጽ መስጫ ላይ አይፈርሙ። ሞልተው ሲጨርሱ አጣጥፈው ወደ ሚስጥር ኮሮጆው ውስጥ ይጣሉ።

If you spoil this ballot, return it to the Board Agent for a new one.
Si usted daña esta papeleta devuélvala al Agente de la Junta y pídale una nueva.
ይህ ወረቀት ከተበላሸቦት ለቦርዱ ይመልሱና ሌላ ይቀበሉ።

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በዚህ ሀገር ውስጥ ብሔራዊ የሰራተኛ ግንኙነት ቦርድ በዚህ ምርጫ ምንም አይወከልም።በማንኛውም የናሙና የምርጫ ማቅረቢያ
La Junta Nacional de Relaciones del Trabajo no respalda a ninguna de las opciones en esta elección
Cualquier marca que se pueda ver en cualquier muestra de la papeleta no fue hecha por la Junta Nacional de Relaciones del Trabajo
ላይ ሊያዩ የሚችሉ ማናቸውም ማርከሮች በብሔራዊ የሰራተኛ ግንኙነት ቦርድ አልተቀመጠም.

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Estados Unidos de América
Junta Nacional de Relaciones del Trabajo

AVISO DE ELECCION

DERECHOS PARA EMPLEADOS – LA LEY FEDERAL LES DA EL DERECHO DE:

- **Formarse, unirse o apoyar a una unión**
- **Escoger a representantes para que negocien de su parte con su empleador**
- **Actuar junto con otros empleados por beneficio y protección mutua**
- **Elegir no participar en ninguna de estas actividades protegidas**
- **En un Estado donde tales acuerdos son permitidos, la Unión y el Empleador podrán celebrar un acuerdo legal de protección sindical que requiera que los empleados paguen cuotas periódicas y cuotas de iniciación. Los no-miembros que informen a la unión de su objeción a que sus pagos sean usados con propósitos no representativos, podrán ser requeridos de pagar solo la porción de los costos de la unión por actividades representativas (tales como negociación colectiva, administración de contratos y resolución de quejas).**

La Junta Nacional de Relaciones del Trabajo es responsable de proteger a los empleados en el ejercicio de estos derechos. **La Junta quiere que todos los votantes elegibles estén totalmente informados de sus derechos conforme a la ley Federal y cuando se celebren elecciones, quiere que ambos, los Empleadores y las Uniones, sepan que se espera de ellos.**

Si los agentes, ya sean de las Uniones o de los Empleadores, interfieren con su derecho de tener una elección libre, justa y honesta, ésta podría ser desestimada por la Junta. Cuando es apropiado, la Junta proporciona otros recursos, tales como la reincorporación de los empleados que fueron despedidos por ejercer sus derechos, incluyendo el pago retroactivo de la parte que fue responsable de sus despidos.

Los siguientes son ejemplos de conductas que interfieren con los derechos de los empleados y que pudieran resultar en una desestimación de la elección:

- Un empleador o la unión que amenace con la pérdida de trabajos o beneficios.
- Una de las partes capaces que promete u otorga promociones, aumento de sueldos, u otros beneficios para influenciar el voto del empleado.
- Un empleador que despide a empleados para desalentar o alentar la actividad de unión, o una unión que cause sus despidos para alentar la actividad de la unión.
- Dar discursos de campaña para congregar grupos de empleados en horas de trabajo, donde la asistencia es obligatoria, dentro del periodo de las 24 horas antes de que los centros de votación abran por primera vez, o que las papeletas de votación por correo sean despachadas.
- Un empleador o la unión que instigue prejuicios raciales o religiosos por medio de apelaciones inflamatorias.
- Una unión o un empleador que amenace a los empleados con fuerza física o violencia para influenciar sus votos.

La Junta Nacional de Relaciones del Trabajo protege su derecho a una libre selección.

No se permitirán conductas inapropiadas. Se espera que todas las partes cooperen totalmente con esta Agencia para mantener los principios básicos de elecciones justas como es requerido por la ley.

Cualquier persona con preguntas sobre una elección puede contactar a la Oficina de la JNRT al (702)388-6416 o visitar la página web de la JNRT www.nlrb.gov para ser asistido.

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የአሜሪካ መንግስት
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ
የምርጫ ማስታወቂያ

የምርጫው ዓላማ: ይህ ምርጫ የሚወክለው ሠራተኛ ከአሰሪዎ ጋር ለቡድን ተደራዳሪዎች አላማ ለመፈለግ የሚፈልጉትን ተወካይ መወሰን ነው. አብዛኛው የድምፅ መስጠት ድምፅ የምርጫውን ውጤት ይወስናል። በ 12 ወራት ጊዜ ውስጥ አንድ ትክክለኛ የውክልና ምርጫ ምርጫ ሊደረግ ይችላል።

የምስጢር ኮሮጆ: ምርጫው በሀገራዊ የሰራተኛ ግንኙነት ቦርድ (NLRB) የክልሉ ዳይሬክተር ቁጥጥር ስር በ SECRET ቅደም ተከተል አማካይነት ይሆናል. የህዝብ ድምፅ መስጫ ናሙና በምስሉ በሚቀጥለው ገጽ ላይ ይታያል. ድምጽ ሰጭዎች ጣልቃ ገብነት, ገደብ ወይም ግፊት ሳይደረግ ድምጽ እንዲሰጡ ይፈቀድላቸዋል. በምርጫው ቦታ ላይ ምርጫ ወይም የምርጫ ቦታ አይደረግም። የእነዚህ ደንቦች ጥሰቶች ወዲያውኑ ለ NLRB ተወካይ ሪፖርት ማድረግ አለበት. የእርስዎ ብሄራዊ የአሰሪና ሰራተኛ ግንኙነት ህግ ክፍል 12 ላይ ይጠየቃሉ።**ማንኛውም ግለሰብ ከማንኛውም የዲሬክተሩ አባል ወይም ከድርጅቱ አባል ወይም ወኪሎቹ ጋር በቅን ልቦለድ ወይም በድርጅቱ ውስጥ በሚፈጽሙት ተግባራት በሙሉ ከ 5,000 ዶላር በላይ ወይም በማስተርጎዝ ከአንድ ዓመት በላይ አይደለም።**

የብቃት ማረጋገጫዎች: ለመምረጥ ብቁ የሆኑ ሠራተኞች በሚቀጥለው ገጽ ውስጥ በ VOTING UNIT ውስጥ የተገለጹ እና በህመም ወይም በእረፍት ጊዜ ወይንም ለጊዜው ከስራ ውጭ ስለሆኑ ሰራተኛውን የማይሰሩ ሰራተኞችን እንዲሁም ሰራተኞችን በውትድርናው አገልግሎት ውስጥ ያካትታል. በአሜሪካ የምርጫ ታዛቢ ልዑክ ያሰለጥናቸው ናቸው. ከተመዘገበው የጊዜ ገደብ ጀምሮ ሥራውን ካቆሙ ወይም ከተሰናበቱበት ጊዜ ጀምሮ ሥራቸውን ካቆሙ ወይም ከተሰናበቱ ሠራተኞች መካከል የምርጫው ቀን ከመምጣቱ በፊት ሥራ ላይ ከዋለ ወይም እንደገና ካልተመለሱ።

ልዩ ድጋፍ: በዚህ ምርጫ ለመሳተፍ ማንኛውንም ሰራተኛ ወይም ሌላ ተካፋይ የሆነ, ወይም በእንደዚህ አይነት የምርጫ እንቅስቃሴ ውስጥ ለመሳተፍ እንደ የምልክት ቋንቋ አስተርጓሚ የመሳሰሉ ልዩ ተካፋይ ለ NLRB ጽ / ቤት በተቻለ ፍጥነት ማሳወቅ እና አስፈላጊውን እርዳታ መጠየቅ አለበት።

የድምፅ ሂደት: በምርጫው ቦታ ሲደርሱ, መራጮች ወደ የቦርድ ተወካይ በማቅረብ ስማቸውን በመጥቀስ መለየት አለባቸው።የቦርዱ ወኪል በእያንዳንዱ ብቁ መመዘኛ ላይ ለእራሳቸው ድምጽ መስጠያ ያቀርባል. ድምጽ ሰጪዎች ድምጽ መስጫ ቦታ ውስጥ ይገባሉ እና የድምፅ መስጫ ወረቀቱን በስውር ምልክት ያድርጉ. የእንቆቅልሽዎን ምልክት አይፅፉ. የድምፅ መስጫውን ከመውጣቱ በፊት የድምፅ መስጫውን ወረቀት ይስጡ, ከዚያም በግል ለቦርዱ ወኪል ቁጥጥር ስር በተቀመጠ የድምፅ መስጫ ሳጥን ውስጥ ያስቀምጡና የምርጫውን ቦታ ይተዉታል።

የተቃዋሚዎች ተፈታታኝ ሁኔታ: የመምረጥ መብትዎ ተቃውሞ ከተጠየቀ, ለተቃውሞ የድምጽ ምርጫ እንዲሰጡ ይፈቀድልዎታል. ለመምረጥ ብቁ መሆንዎን ቢያምኑም, ችግሩን ለመፍታት የምርጫው አካባቢ አይደለም. የቦርድ ተወካይ ስምዎን እና ሌሎች እንዲጠይቁ የተጠየቁትን መረጃ ይስጡ. የድምጽ መስጫ ወረቀት ከደረስዎ በኋላ ወደ ድምጽ መስጫ መሸፈጊ ቦታ ይሂዱ, ምልክት ማድረጊያ ምልክት ያድርጉበት እና ምልክትዎን በምስጢር ለማቆየት ይጣሉት. የእንቆቅልሽዎን ምልክት አይፅፉ. የድምጽ መስጫ ወረቀቱን በአንድ ፈታሽ ፖስታ ውስጥ እንዲያስቀምጡ, ፖስታውን በማተም, በድምጽ መስጫ ሳጥን ውስጥ ለማስቀመጥ, እና የምርጫውን ቦታ ለቀው እንዲወጡ ይጠይቃል. መመዘኛውዎን ካሟሉ በኋላ ቆይተው መፍትሔ ያገኛሉ።

የተፈቀደላቸው ጠባቂዎች-እያንዳንዱ ቡድን እኩል ቁጥር ያላቸው ታዛቢዎች ሊመርጡ ይችላሉ, ይህ ቁጥር በ NLRB ይወሰናል. እነዚህ ታዛቢዎች (ሀ) በምርጫ ጣቢያው እና በምርጫ ቆጠራ ላይ እንደ ቼክ ሆነው ይሠራሉ, (ለ) መራጮች ለመለየት ይረዳል, (c) መራጮችን እና የድምጽ መስጫ ፈተናዎችን በመግጠም; እና (d) አለበለዚያ NLRB ን ይረዳሉ።

ማስጠንቀቂያ *ይህ ምርጫ ብቻ ነው አፈሲላዊ ማስታወቂያ እና በማንም ሰው መተካት የለበትም በማንኛቸውም ሊያዩ የሚችሉ ማናቸውንም አርማዎችየምርጫ ቅጅ ናሙና ወይም በዚህ ማስታወቂያ ቦታ ላይ ያለ ማንኛውም ቦታ በብሔራዊ የሰራተኛ ግንኙነት ቦርድ ካልሆነ በስተቀር ሌላ ሰው አልተሰራምበብሔራዊ የሰራተኛ ግንኙነት ቦርድ እዛው ነበር የብሔራዊ የሰራተኛ ግንኙነት ቦርድ የዩናይትድ ስቴትስ ወኪል ነው መንግሥት በምርጫ ረገድ ምንም ዓይነት ምርጫን አይደግፍም።*

የአሜሪካ መንግስት
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ
የምርጫ ማስታወቂያ

ሠራተኞች ለመምረጥ ብቁ ይሆናሉ- ሁሉም የሙሉ ሰዓት እና መደበኛ የሙሉ ሰዓት አገልግሎት ሰጪዎች, ባርካዎች, ባር / የምግብ አልጋዎች, ባርትነርስ, ባጅ ባርትነርስ, የእንቆቅልሽ አስመጪዎች, የምግብ አገልግሎት, የአውቶቡስ ሰዎች, ኩኪዎች, ኩኪዎች, ምግብ አገልጋዮች, ረዳት የምግብ አገልጋዮች, እንግዳ ወኪሎች, አስተናጋጅ / ካሪ አካላት, የቤት ሰራተኞች, የመብራት ሰራተኞች, የመርዘሩ መተላለፊያዎች, የመርከብ አከፋፋይ ሰጭዎች, ሚድራ ባር ተከራዮች, አስመጪዎች, የክፍል ተሳፋሪዎች, የአገልግሎት ባርታንስስ, ሩዝነሮች, የቦታ ቦርድ, ልዩ ሙጫዎች, ምድጃዎች, የቡድን አባላት የቡና ቤት መያዣዎች, ፓርደሮች, ቪያትር ባር ቴነርስ, እና ቪዛ ባር / አስተናጋጅ ሰራተኞች በሳዝ ቬጋስ, ኔቫዳ በሚገኘው ፋብሪካው ውስጥ በሚቀጥለው ኤፕሪል 8, 2018 ላይ በሚቆየው የቀን መቁጠሪያ ወቅት።

ሰልጣኞች ለመምረጥ ብቁ አይደሉም: ሁሉም ሰራተኞች በስልሰተኝነት የሚሰሩ ሌሎች ሰዎች, ቤል ፐርሰንስ, እስፓርት, ቫሌት ፓርከስ, የቤቶች ቁላፊ ሱፐርቫይዘሮች, የጨዋታ ሰራተኞች (ኮማንደር, የሰዓት ቀጠሮዎች, ካባ እና ካሽላዎች ጨምሮ), አሽከርካሪዎች, የፉት ሰራተኞች, የምህንድስና እና የጥገና ሰራተኞች , የሕይወት አድን ሠራተኞችን, የስፓርት እና ሳሎን ሰራተኞችን, የቢሮ ሰራተኞችን, ምስጢራዊ ሠራተኛዎችን እና ሁሉም ጠባቂዎች, አስተዳዳሪዎች እና ተቆጣጣሪዎች በህጉ ላይ በተገለጸው መሰረት.

ሌሎች እንዲመረጡ ተፈቅዶላቸዋል: በዚህ ወቅት የደንብ ተቆጣጣሪዎች, ሞዴል ባር ፖዘሬዎች, ሞዴል ባርትነርስ እና ሞዴል መጠጦች (ሎተሪ ፖርሲንግ) አገልጋዮች የተከሉት ወይንም ከድርጅቱ ውስጥ እንዳይካተቱ አለመደረጉን እና በእነዚህ ደረጃዎች ውስጥ ያሉ ግለሰቦች ድምጽ መስጠት ይችላሉ. ሆኖም ግን የምርጫ መስፈርቶች ገና ካልተወሰነላቸው የምርጫ ቅስቀሳ ተካሂዶባቸዋል።እነዚህ ግለሰቦች የብቁነት ወይም ማካተት አስፈላጊ ከሆነ ምርጫውን ተከትሎ በተቻለ መፍትሄ ያገኛሉ።

ቀን, ሰዓት እና ቦታ የመምረጫ ቦታ

ቀን:	ጊዜያት	ቦታ
አርብ፣ ሚያዚያ 27, 2018 ቅዳሜ, ሚያዝያ 28, 2018	ከ 6:00AM እስከ 9:00AM ከ 11:00AM እስከ 2:00PM ከ 4:00 PM እስከ 7:00 PM	ግራንድ ቦል ሩም ሁለተኛ ፎቅ ፋንታሲ ታወር የሰራተኛ ፋሲሊቲ 4321 ምዕራብ ፍላሚንጎ መንገድ፣ ላስቬጋስ፣ ኔቫ

ማስጠንቀቂያ *ይህ ምርጫ ብቻ ነው ኦፊሴላዊ ማስታወቂያ እና በማንም ሰው መተካት የለበትም በማንኛቸውም ሊያዩ የሚችሉ ማናቸውንም አርማዎችየምርጫ ቅጅ ናሙና ወይም በዚህ ማስታወቂያ ቦታ ላይ ያለ ማንኛውም ቦታ በብሔራዊ የሰራተኛ ግንኙነት ቦርድ ካልሆነ በስተቀር ሌላ ሰው አልተሰራምበብሔራዊ የሰራተኛ ግንኙነት ቦርድ እዛው ነበር የብሔራዊ የሰራተኛ ግንኙነት ቦርድ የዩናይትድ ስቴትስ ወኪል ነው መንግሥት በምርጫ ረገድ ምንም ዓይነት ምርጫን አይደግፍም።*

የአሜሪካ መንግስት
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ
የምርጫ ማስታወቂያ

በማንኛውም ጊዜ ለመምረጥ ነፃ የሆኑ ሠራተኞች ሥራ ላይ ይውላሉ።

የመጨረሻው የምርጫ መስጫ መደምደሚያ ከተጠናቀቀ በኋላ ሁሉም ጠቋሚዎች መጠናቸውን እና ሊከመሩ ይችላሉ።

UNITED STATES OF AMERICA
ESTADOS UNIDOS DE AMERICA
የአሜሪካ መንግስት

National Labor Relations Board
Junta Nacional De Relaciones Del Trabajo
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ

28-RC-217964

28-አር ሲ -217964

OFFICIAL SECRET BALLOT
PAPELETA SECRETA OFICIAL
የታወቀ የምስጢር ኮሮጆ

For certain employees of
Para Ciertos Empleados De
ለታወቁ ሰራተኞች

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT
ኤፍ ሆልዲንጎች፣ ኤል ፒ. ዲ/ቢ/ኤ ፓልምስ የካሲኖ ሪዞርት

Do you wish to be represented for purposes of collective bargaining by
¿Desea usted estar representado para los fines de negociar colectivamente por
ለቡድን ድርድር ዓላማ ሲባል እንዲወከሉ ይፈልጋሉ ?

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS A/W UNITE HERE INTERNATIONAL UNION?

የላስቬጋስ የተቀናጀ ጠቅላይ ቦርድ

መቀላቀል ይፈልጋሉ አለም አቀፉን ህብረት ?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE
MARQUE CON UNA "X" DENTRO DEL CUADRO DE SU SELECCIÓN
ምርጫዎን X የሚለውን ማርክ ያድርጉ

YES SI አዎ	NO NO አይደለም
☐	☐

Sample

DO NOT SIGN THIS BALLOT. Fold and drop in the ballot box.
NO FIRME ESTA PAPELETA. Dóblela y depositela en la urna electoral.
እዚ ድምጽ መስጫ ላይ አይፈርሙ። ሞልተው ሲጨርሱ አጣጥፈው ወደ ሚስጥር ኮሮጆው ውስጥ ይጣሉ።

If you spoil this ballot, return it to the Board Agent for a new one.
Si usted daña esta papeleta devuélvala al Agente de la Junta y pídale una nueva.
ይህ ወረቀት ከተበላሸቦት ለቦርዱ ይመልሱና ሌላ ይቀበሉ።

The National Labor Relations Board does not endorse any choice in this election
Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board
በዚህ ሀገር ውስጥ ብሔራዊ የሰራተኛ ግንኙነት ቦርድ በዚህ ምርጫ ምንም አይወከልም።በማንኛውም የናሙና የምርጫ ማቅረቢያ
La Junta Nacional de Relaciones del Trabajo no respalda a ninguna de las opciones en esta elección
Cualquier marca que se pueda ver en cualquier muestra de la papeleta no fue hecha por la Junta Nacional de Relaciones del Trabajo
ላይ ሊያዩ የሚችሉ ማናቸውም ማርከዶች በብሔራዊ የሰራተኛ ግንኙነት ቦርድ አልተቀመጠም.

ማስጠንቀቂያ *ይህ ምርጫ ብቻ ነው አፈሌላዊ ማስታወቂያ እና በማንም ሰው መተካት የለበትም በማንኛቸውም ሊያዩ የሚችሉ ማናቸውንም አርማዎችየምርጫ ቅጅ ናሙና ወይም በዚህ ማስታወቂያ ቦታ ላይ ያለ ማንኛውም ቦታ በብሔራዊ የሰራተኛ ግንኙነት ቦርድ ካልሆነ በስተቀር ሌላ ሰው አልተሰራምበብሔራዊ የሰራተኛ ግንኙነት ቦርድ አዛው ነበር የብሔራዊ የሰራተኛ ግንኙነት ቦርድ የዩናይትድ ስቴትስ ወኪል ነው መንግሥት በምርጫ ረገድ ምንም ዓይነት ምርጫን አይደግፍም።*

የአሜሪካ መንግስት
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ
የምርጫ ማስታወቂያ

የሰራተኞች መብቶች - ፌዴራላዊ ህግ ለርስዎ መብት ይሰጥዎታል:

- የሰራተኛ ማህበር ማቋቋም, መቀላቀል ወይም መደገፍ
- በእርስዎ ምትክ ከአሰሪዎ ጋር ለመደራደር ተወካዮች ይምረጡ
- ለእርስዎ ጥቅምና ጥበቃ ከሌሎች ሰራተኞች ጋር አብሮ ይውሰዱ
- ከእነዚህ ጥበቃ የሚደረግለት እንቅስቃሴ ውስጥ በአንዱ ውስጥ ላለመሳተፍ ይምረጡ
- እንደዚህ ዓይነት ስምምነቶች በሚፈቀዱበት ክልል ማህበሩ እና አሰሪው ህጋዊ ባልደረባነት ሊገባ ይችላል-የደመወዝ ክፍያ እና የአሰራር ክፍያን እንዲከፍሉ የሚያስገድድ የደህንነት ስምምነት. ማህበሩ ለተባበሩት መንግስታት ዓላማዎች ክፍያውን መጠቀምን እንደሚቃወሙ አባልነታቸውን ያላሳወቁ ባልደረቦች የሽምግልናውን, የኮንትራት አስተዳደርንና የአቤቱታ ማስተካከያዎችን የመሳሰሉ የሽያጭ ወጪዎች መክፈል ይኖርባቸዋል።

ሰራተኞቹን እነዚህን መብቶች ለማስከበር በብሔራዊ የሰራተኛ ግንኙነት ቦርድ ሃላፊነት ነው.

ቦርዱ በፌደራል ሕግ መሰረት ስለ መብታቸው ሙሉ ለሙሉ ብቃት ያላቸው መራጮች እንዲታቀፉ ይፈልጋል. እናም አሰሪዎችና ዩኒየኖች በምርጫው ወቅት ምን እንደሚጠበቅላቸው እንዲያውቁ ይፈልጋል.

የአንድ ዩኒቨርሲቲዎች ወይም ቀጣሪዎች ተወካዮች ነፃ, ፍትሀዊ, እና ሀቀኛ ምርጫዎን የመምረጥ መብትዎ በቦርድ ሊቀይሩ ይችላሉ. አስፈላጊ ሆኖ ሲገኝ, ቦርዱ የመብቱን ኃላፊነት በመተካት ለተጣለ ሰራተኞች እንደ መተዳደሪያ ደህንነቱ ተጠያቂ ለሆኑ ሠራተኞች መልሶ የመመለስን የመሳሰሉ ሌሎች መፍትሄዎችን ይሰጣል.

የሚከተሉት የሰራተኞችን መብቶች የሚያደናቅፉ ምግባሮችን ምሳሌዎች እና በምርጫው እንዲቀመጡ ሊያደርግ ይችላል.

- አሰሪ ወይም ማህበርን የሚቀጠሩ ስራዎችን ወይም ጥቅሞችን ማስፈራራት ማስፈራራት
- እነዚህን የሰጡትን ተስፋዎች ሊፈጽሙ በሚችል ፓርቲ የአንድ ሠራተኛ ድምጽ እንዲሰጡ ማስተዋወቂያን, የክፍያ ጭማሪን ወይም ሌሎች ጥቅሞችን እንደሚያስተዋውቅ ወይም በመስጠት,
- አሰሪ ሰራተኛ ሰራተኞች የሰራተኛ ማህበር እንቅስቃሴን ለማቃለል ወይም ለማበረታታት ማህበር እንቅስቃሴዎች ለማበረታታት እንዲነሳሳ ያደረጉትን ማህበር ያበረታታል
- የምርጫ ቅስቀሳ ከመጀመሩ በፊት ለመጀመሪያ ጊዜ ክፍት ከመደረጉ ወይም ፖስታ ፓርቲዎች የድምፅ መስጫ ወረቀት በፖስታ ቤት ምርጫ ከመድረሳቸው በፊት በ 24 ሰዓት ጊዜ ውስጥ ለተቀጠሩ ሰራተኞች በቡድን ጊዜ ለተወሰኑ የሥራ ቡድኖች ድምፃቸውን መግለጽ.
- በደም መንስዔ ወይም በሃይማኖት ምክንያት በዘር ወይም በሃይማኖት ምክንያት ጭፍን ጥላቻን ማነሳሳት
- በአንድ ማህበር ወይም በአሰሪ ላይ አሰሪዎችን ለመጫን የአካላዊ ኃይል ወይም ዓመፅ ማስፈራራት

ብሄራዊ የሰራተኛ ግንኙነት ቦርድ የመምረጥ መብትዎን ይከላከላል።

ተገቢ ያልሆነ ምግባር አይፈቀድም. ሁሉም ድርጅቶች በዚህ ኤጀንሲ ሙሉ በሙሉ በመተባበር በህግ በተደነገገው መሠረት ፍትሃዊ ምርጫ መሰረታዊ መርሆችን በመጠበቅ ይተባበራሉ ተብሎ ይጠበቃል.

የምርጫ ጥያቄ ካለ ማንኛውም ሰው NLRB ቢሮ በ (702) 388-6416 ወይም ወደ NLRB ድረገጽ www.nlrb.gov በመሄድ እርዳታ ሊያገኝ ይችላል።

ማስጠንቀቂያ *ይህ ምርጫ ብቻ ነው ኦፊሴላዊ ማስታወቂያ እና በማንም ሰው መተካት የለበትም በማንኛቸውም ሊያዩ የሚችሉ ማናቸውንም አርማዎችየምርጫ ቅጅ ናሙና ወይም በዚህ ማስታወቂያ ቦታ ላይ ያለ ማንኛውም ቦታ በብሔራዊ የሰራተኛ ግንኙነት ቦርድ ካልሆነ በስተቀር ሌላ ሰው አልተሰራምበብሔራዊ የሰራተኛ ግንኙነት ቦርድ እዛው ነበር የብሔራዊ የሰራተኛ ግንኙነት ቦርድ የዩናይትድ ስቴትስ ወኪል ነው መንግሥት በምርጫ ረገድ ምንም ዓይነት ምርጫን አይደግፍም።*

From:	Zayas, Christian D.
To:	harriet.lipkin@dlapiper.com; ebm@msh.law
Subject:	FP Holdings, L.P., d/b/a Palms Casino Resort / Case 28-RC-217964
Date:	Tuesday, April 24, 2018 6:09:58 PM
Attachments:	ERR.28-RC-217964.Erratum.pdf NEE.28-RC-217964.Corrected Notices of Election.pdf image001.png

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Please see the attached Erratum and Corrected Notices of Election.

From: Zayas, Christian D.
Sent: Monday, April 23, 2018 2:49 PM
To: 'harriet.lipkin@dlapiper.com' <harriet.lipkin@dlapiper.com>; 'ebm@msh.law' <ebm@msh.law>
Subject: FP Holdings, L.P., d/b/a Palms Casino Resort / Case 28-RC-217964

Please see the attached documents.

V/R

NATIONAL LABOR RELATIONS BOARD

Christian D. Zayas
Secretary to the Assistant Regional Director
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004-3099
(602)416-4772

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

FP HOLDINGS, L.P., d/b/a PALMS CASINO RESORT

Employer

and **Case 28-RC-217964**

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS a/w UNITE HERE INTERNATIONAL UNION

Petitioner

ERRATUM

On April 23, 2018, a Decision and Direction of Election (Decision) issued in the above matter. The "Voting Eligibility" section of the Decision stated April 8, 2018 as the payroll period ending date for employees in the unit eligible to vote. The correct payroll period ending date is April 22, 2018. Accordingly, the "Voting Eligibility" section is corrected as follows:

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **April 22, 2018**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible to vote are all employees in the unit who have worked an average of four (4) hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.[1]

[1] The Employer contends that certain catering employees occupying positions that are included in the petitioned-for unit, are ineligible to vote under the under the *Davison-Paxon* standard because each "has not averaged 4 hours or more per week for the last quarter prior to the eligibility date." *Davison-Paxon Co.,* 185 N.L.R.B. 21, 24 (1970). The record reflects that there are approximately 47 employees the Employer asserts occupy such positions, including Banquet Servers, Banquet Bartenders, Banquet Porters, and Lead Banquet Porters. At the hearing, the parties were unable to reach a stipulation agreeing that employees occupying such positions would vote subject to challenge. The hearing officer therefore deferred this issue to post-election proceedings, if necessary. As a reminder, the Employer's election observer(s) is/are free to challenge any such voters on this basis at the election, as appropriate.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classifications whose eligibility remains unresolved as specified above and in the Notice of Election.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

Dated at Phoenix, Arizona, this 24th day of April, 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by SECRET ballot under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violations of these rules should be reported immediately to an NLRB agent. Your attention is called to Section 12 of the National Labor Relations Act which provides: ANY PERSON WHO SHALL WILLFULLY RESIST, PREVENT, IMPEDE, OR INTERFERE WITH ANY MEMBER OF THE BOARD OR ANY OF ITS AGENTS OR AGENCIES IN THE PERFORMANCE OF DUTIES PURSUANT TO THIS ACT SHALL BE PUNISHED BY A FINE OF NOT MORE THAN $5,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off, and also include employees in the military service of the United States who appear in person at the polls. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are *not* eligible to vote.

SPECIAL ASSISTANCE: Any employee or other participant in this election who has a handicap or needs special assistance such as a sign language interpreter to participate in this election should notify an NLRB Office as soon as possible and request the necessary assistance.

PROCESS OF VOTING: Upon arrival at the voting place, voters should proceed to the Board agent and identify themselves by stating their name. The Board agent will hand a ballot to each eligible voter. Voters will enter the voting booth and mark their ballot in secret. DO NOT SIGN YOUR BALLOT. Fold the ballot before leaving the voting booth, then personally deposit it in a ballot box under the supervision of the Board agent and leave the polling area.

CHALLENGE OF VOTERS: If your eligibility to vote is challenged, you will be allowed to vote a challenged ballot. Although you may believe you are eligible to vote, the polling area is not the place to resolve the issue. Give the Board agent your name and any other information you are asked to provide. After you receive a ballot, go to the voting booth, mark your ballot and fold it so as to keep the mark secret. DO NOT SIGN YOUR BALLOT. Return to the Board agent who will ask you to place your ballot in a challenge envelope, seal the envelope, place it in the ballot box, and leave the polling area. Your eligibility will be resolved later, if necessary.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the voting place and at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

All full-time and regular part-time Banquet Servers, Bakers, Bar/Beverage Porters, Bartenders, Banquet Bartenders, Banquet Porters, Beverage Servers, Bus Persons, Cooks, Cooks Helpers, Food Servers, Assistant Food Servers, Guest Room Attendants, Host/Cashiers, House Persons, Kitchen Workers, Lead Porters, Lead Banquet Porters, Mini Bar Attendants, Porters, Room Runners, Service Bartenders, Sprinters, Status Board, Specialty Cooks, Stove Persons, Team Member Dining Room Attendants, Uniform Room Attendants, Utility Porters, VIP Bartenders, and VIP Bar Hosts employed by the Employer at its facility in Las Vegas, Nevada, during the payroll period ending April 22, 2018.

EMPLOYEES NOT ELIGIBLE TO VOTE:

All other employees employed by the Employer, including Bell Persons, Butlers, Valet Parkers, Housekeeping Supervisors, Gaming Employees (including, but not limited to Dealers, Slot Attendants, Cage, and Cashiers), Drivers, Front Desk Employees, Engineering and Maintenance Employees, Lifeguards, Spa & Salon workers, Office Clerical Employees, Confidential Employees and all Guards, Managers and Supervisors as defined by the Act.

Others permitted to vote: At this time, no decision has been made regarding whether Banquet Captains, Model Bar Porters, Model Bartenders, and Model Beverage Servers are included in, or excluded from, the bargaining unit, and individuals in those classifications may vote in the election but their ballots shall be challenged since their eligibility has not been determined. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

DATES, TIMES AND PLACE OF ELECTION

Dates:	Times:	Place:
Friday, April 27, 2018 Saturday, April 28, 2018	6:00 a.m. to 9:00 a.m. 11:00 a.m. to 2:00 p.m 4:00 p.m. to 7:00 p.m	The Grand Ballroom on the second floor of the Fantasy Tower at the Employer's facility 4321 West Flamingo Road, Las Vegas, NV

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board
NOTICE OF ELECTION

EMPLOYEES ARE FREE TO VOTE AT ANY TIME THE POLLS ARE OPEN.
ALL BALLOTS WILL BE MINGLED AND COUNTED IMMEDIATELY AFTER THE CONCLUSION OF THE LAST VOTING SESSION.

UNITED STATES OF AMERICA
ESTADOS UNIDOS DE AMERICA
የአሜሪካ መንግስት

National Labor Relations Board
Junta Nacional De Relaciones Del Trabajo
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ

28-RC-217964
28-አር ሲ -217964

OFFICIAL SECRET BALLOT
PAPELETA SECRETA OFICIAL
የታወቀ የምስጢር ኮሮጆ

For certain employees of
Para Ciertos Empleados De
ለታወቁ ሰራተኞች

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT
ኤፍ ሆልዲንጎች፣ ኤል ፒ. ዲ/ቢ/ኤ ፓልምስ የካሲኖ ሪዞርት

Do you wish to be represented for purposes of collective bargaining by
¿Desea usted estar representado para los fines de negociar colectivamente por
ለቡድን ድርድር ዓላማ ሲባል እንዲወከሉ ይፈልጋሉ ?

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS A/W UNITE HERE INTERNATIONAL UNION?

የላስቬጋስ የተቀናጀ ጠቅላይ ቦርድ

መቀላቀል ይፈልጋሉ አለም አቀፉን ህብረት ?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE
MARQUE CON UNA "X" DENTRO DEL CUADRO DE SU SELECCIÓN
ምርጫዎን X የሚለውን ማርክ ያድርጉ

YES SI አዎ	NO NO አይደለም
☐	☐

Sample

DO NOT SIGN THIS BALLOT. Fold and drop in the ballot box.
NO FIRME ESTA PAPELETA. Dóbleta y deposítela en la urna electoral.
እዚ ድምጽ መስጫ ላይ አይፈርሙ። ሞልተው ሲጨርሱ አጣጥፈው ወደ ሚስጥር ኮሮጆው ውስጥ ይጣሉ።

If you spoil this ballot, return it to the Board Agent for a new one.
Si usted daña esta papeleta devuélvala al Agente de la Junta y pídale una nueva.
ይህ ወረቀት ከተበላሸቦት ለቦርዱ ይመልሱና ሌላ ይቀበሉ።

The National Labor Relations Board does not endorse any choice in this election
Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board
በዚህ ሀገር ውስጥ ብሔራዊ የሰራተኛ ግንኙነት ቦርድ በዚህ ምርጫ ምንም አይወከልም።በማንኛውም የናሙና የምርጫ ማቅረቢያ

La Junta Nacional de Relaciones del Trabajo no respalda a ninguna de las opciones en esta elección
Cualquier marca que se pueda ver en cualquier muestra de la papeleta no fue hecha por la Junta Nacional de Relaciones del Trabajo
ላይ ሊያዩ የሚችሉ ማናቸውም ማርከሮች በብሔራዊ የሰራተኛ ግንኙነት ቦርድ አልተቀመጠም.

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Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- **Form, join, or assist a union**
- **Choose representatives to bargain with your employer on your behalf**
- **Act together with other employees for your benefit and protection**
- **Choose not to engage in any of these protected activities**
- **In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).**

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- **Threatening loss of jobs or benefits by an Employer or a Union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched in a mail ballot election**
- **Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a Union or an Employer to influence their votes**

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (702)388-6416 or visit the NLRB website www.nlrb.gov for assistance.

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(4-2015)

Estados Unidos de América
Junta Nacional de Relaciones del Trabajo

AVISO DE ELECCION

<u>OBJETIVO DE LA ELECCION</u>: Esta elección es para determinar quién es el representante deseado por los empleados, si hubiese alguno, con el propósito de negociar colectivamente con su empleador. La mayoría de los votos válidos emitidos determinaran los resultados de la elección. En un período de 12 meses, solamente se podrá celebrar una elección válida de representación.

<u>VOTO SECRETO</u>: La elección será por papeleta de votación SECRETA bajo la supervisión del Director Regional de la Junta Nacional de Relaciones del Trabajo (JNRT). Una muestra de la papeleta oficial de votación se exhibe en la siguiente página de este Aviso. Los votantes podrán votar sin interferencia, impedimento o amenaza. No se permitirán campañas electorales en el centro de votación o sus alrededores. Las violaciones de estas reglas deberán ser reportadas inmediatamente a un agente de la JNRT. Se requiere su atención a la Sección 12 de la Ley Nacional de Relaciones del Trabajo que indica: CUALQUIER PERSONA QUE DELIBERADAMENTE SE OPONGA, PREVENGA, IMPIDA O INTERFIERA CON CUALQUIER MIEMBRO DE LA JUNTA O CUALESQUIERA DE SUS AGENTES O AGENCIAS EN EL DESEMPEÑO DE SUS FUNCIONES CONFORME A ESTA LEY, SERA CASTIGADA CON UNA MULTA QUE NO EXCEDA $5,000 DOLARES AMERICANOS, O ENCARCELAMIENTO QUE NO EXCEDA UN AÑO, O AMBOS.

<u>REGLAS DE ELEGIBILIDAD</u>: Los empleados elegibles para votar son aquellos que son descritos conforme a la UNIDAD DE VOTACION en la página siguiente, que incluye empleados que no trabajaron durante el periodo de la nomina de sueldos designada, porque ellos estaban enfermos o en vacaciones, o temporalmente descansados, y también se incluye a empleados en el servicio militar de los Estados Unidos que se presenten al lugar de la votación. NO son elegibles para votar, los empleados que renunciaron o fueron despedidos con causa, desde el período de la nómina de sueldos designada, y que no han sido recontratados o reintegrados antes de la fecha de esta elección.

<u>ASISTENCIA ESPECIAL</u>: Cualquier empleado u otro participante en esta elección que tenga una discapacidad, y que para participar requiera una asistencia especial, por ejemplo de un intérprete de lenguaje de señas, deberá comunicarse lo antes posible con una Oficina de la JNRT para solicitar la asistencia necesaria.

<u>EL PROCESO DE LA VOTACION</u>: Al llegar al lugar de la votación, los votantes deberán dirigirse al agente de la Junta e identificarse dando su nombre. El agente de la Junta entregará una papeleta de votación a cada uno de los votantes que sean elegibles. Los votantes entrarán a la caseta de votación y marcaran sus papeletas de votación en secreto. NO FIRME SU PAPELETA DE VOTACION. Doble la papeleta de votación antes de salir de la caseta de votación, luego personalmente depositela en la urna electoral bajo la supervisión del agente de la Junta, y retírese del área de votación.

<u>IMPUGNACION DE VOTANTES</u>: Si se impugna su elegibilidad para votar, se le va a permitir votar con una papeleta impugnada. Aunque usted crea que sea elegible para votar, el área de la votación no es el lugar para resolver este asunto. Proporcione al agente de la Junta su nombre y cualquier otra información que se le pida. Después que usted reciba una papeleta de votación, vaya a la caseta de votación, marque su papeleta de votación y dóblela para poder mantener en secreto lo que marco. NO FIRME SU PAPELETA DE VOTACION. Regrese adonde esta el agente de la Junta quien le pedirá que coloque su papeleta de votación en un sobre impugnado; selle el sobre; colóquelo dentro de la urna electoral y retírese del área de votación. El asunto sobre su elegibilidad se resolverá más tarde, si fuese necesario.

<u>OBSERVADORES AUTORIZADOS</u>: Cada una de las partes podrá designar un número igual de observadores; este número será determinado por la JNRT. Estos observadores (a) actúan como controladores en el lugar de la votación y durante el conteo de las papeletas de votación; (b) ayudan a identificar a votantes; (c) impugnan votantes y papeletas y (d) ayudan de otras maneras a la JNRT.

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Estados Unidos de América
Junta Nacional de Relaciones del Trabajo

AVISO DE ELECCION

UNIDAD DE VOTACION

EMPLEADOS ELEGIBLES PARA VOTAR:
Todos los Servidores de Banquete, Pasteleros, Mozos de Bar/Bebidas, Cantineros, Cantineros de Banquete, Mozos de Banquetes, Servidores de Bebidas, Camareros, Cocineros, Ayudantes de Cocineros, Servidores de Comida, Ayudantes de Servidores de Comida, Asistentes de Cuartos de Huéspedes, Anfitriones/Cajeros, Personal de la Casa, Trabajadores de Cocina, Jefes de Mozos, Jefes de Mozos de Banquetes, Asistentes de Mini Bar, Mozos, Corredores de Cuarto, Cantineros de Servicio, Corredores, Tablero de Estatus, Cocineros Especializados, Personal de Estufa, Asistentes del Comedor de Miembros de Equipo, Asistentes de Cuarto de Uniformes, Mozos de Utilidad, Cantineros VIP y Anfitriones del Bar VIP quienes trabajan de tiempo completo y regularmente de tiempo parcial, empleados por el Empleador en su s instalaciones en Las Vegas, Nevada durante el período de pago concluido el 22 de abril de 2018.

EMPLEADOS NO ELEGIBLES PARA VOTAR:
Todos los otros empleados, empleados por el Empleador incluyendo Personas de Campana, Mayordomos, Personal de Valet, Supervisores de Limpieza, Empleados de Juego, (incluyendo pero no limitados a Agentes, Asistentes de Slot, Jaulas y Cajeros), Choferes, Empleados de Recepción, Empleados de Ingeniería y Mantenimiento, Salvavidas, Trabajadores de Spa y Salón, Empleados de Oficina, Empleados Confidenciales, y todos los Guardias, Managers y Supervisores como se definen en la Ley.

OTROS QUE PUEDEN VOTAR:
Hasta este momento no se ha llegado a una decisión si los Capitanes de Banquetes, Mozos del Bar Model, Cantineros de Model, y Servidores de Bebidas Model están siendo incluidos o no en la unidad negociadora, los individuos en estas clasificaciones podrán votar durante la elección pero sus balotas serán objetadas debido a que su elegibilidad no ha sido determinada. La elegibilidad o inclusión de estos individuos será resuelta, si así fuera necesario, después de la elección.

FECHAS, HORAS Y LUGAR DE VOTACION

Fechas:	**Horas:**	**Lugar De Votación:**
Viernes, 27 de abril de 2018 Sábado, 28 de abril de 2018	6:00 a.m. a 9:00 a.m. 11:00 a.m. a 2:00 p.m. 4:00 p.m. a 7:00 p.m.	El Grand Ballroom del segundo piso de la Fantasy Tower en las instalaciones del Empleador en 4321 West Flamingo Road, Las Vegas, NV

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Estados Unidos de América
Junta Nacional de Relaciones del Trabajo

AVISO DE ELECCION

LOS EMPLEADOS SON LIBRES DE VOTAR EN CUALQUIER MOMENTO EN QUE LOS CENTROS DE VOTACIÓN ESTEN ABIERTOS. SE MEZCLARÁN Y SE CONTARÁN TODAS LAS BOLETAS DESPUÉS DE QUE TERMINE LA ÚLTIMA SESIÓN DE VOTACIÓN.

UNITED STATES OF AMERICA
ESTADOS UNIDOS DE AMERICA
የአሜሪካ መንግስት

National Labor Relations Board
Junta Nacional De Relaciones Del Trabajo
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ

28-RC-217964
28-አር ሲ -217964

OFFICIAL SECRET BALLOT
PAPELETA SECRETA OFICIAL
የታወቀ የምስጢር ኮሮጆ

For certain employees of
Para Ciertos Empleados De
ለታወቁ ሰራተኞች

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT
ኤፍ ሆልዲንጎች፣ ኤል ፒ. ዲ/ቢ/ኤ ፓልምስ የካሲኖ ሪዞርት

Do you wish to be represented for purposes of collective bargaining by
¿Desea usted estar representado para los fines de negociar colectivamente por
ለቡድን ድርድር ዓላማ ሲባል እንዲወከሉ ይፈልጋሉ ?

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS A/W UNITE HERE INTERNATIONAL UNION?

የላስቬጋስ የተቀናጀ ጠቅላይ ቦርድ መቀላቀል ይፈልጋሉ አለም አቀፉን ህብረት ?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE
MARQUE CON UNA "X" DENTRO DEL CUADRO DE SU SELECCIÓN
ምርጫዎን X የሚለውን ማርክ ያድርጉ

YES SI አዎ	NO NO አይደለም
☐	☐

Muestra

DO NOT SIGN THIS BALLOT. Fold and drop in the ballot box.
NO FIRME ESTA PAPELETA. Dóblela y deposítela en la urna electoral.
እዚ ድምጽ መስጫ ላይ አይፈርሙ። ሞልተው ሲጨርሱ አጣጥፈው ወደ ሚስጥር ኮሮጆው ውስጥ ይጣሉ።

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Si usted daña esta papeleta devuélvala al Agente de la Junta y pídale una nueva.
ይህ ወረቀት ከተበላሸቦት ለቦርዱ ይመልሱና ሌላ ይቀበሉ።

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Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board
በዚህ ሀገር ውስጥ ብሔራዊ የሰራተኛ ግንኙነት ቦርድ በዚህ ምርጫ ምንም አይወከልም።በማንኛውም የናሙና የምርጫ ማቅረቢያ
La Junta Nacional de Relaciones del Trabajo no respalda a ninguna de las opciones en esta elección
Cualquier marca que se pueda ver en cualquier muestra de la papeleta no fue hecha por la Junta Nacional de Relaciones del Trabajo
ላይ ሊያዩ የሚችሉ ማናቸውም ማርከሮች በብሔራዊ የሰራተኛ ግንኙነት ቦርድ አልተቀመጠም.

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Estados Unidos de América
Junta Nacional de Relaciones del Trabajo

AVISO DE ELECCION

DERECHOS PARA EMPLEADOS – LA LEY FEDERAL LES DA EL DERECHO DE:

- **Formarse, unirse o apoyar a una unión**
- **Escoger a representantes para que negocien de su parte con su empleador**
- **Actuar junto con otros empleados por beneficio y protección mutua**
- **Elegir no participar en ninguna de estas actividades protegidas**
- **En un Estado donde tales acuerdos son permitidos, la Unión y el Empleador podrán celebrar un acuerdo legal de protección sindical que requiera que los empleados paguen cuotas periódicas y cuotas de iniciación. Los no-miembros que informen a la unión de su objeción a que sus pagos sean usados con propósitos no representativos, podrán ser requeridos de pagar solo la porción de los costos de la unión por actividades representativas (tales como negociación colectiva, administración de contratos y resolución de quejas).**

La Junta Nacional de Relaciones del Trabajo es responsable de proteger a los empleados en el ejercicio de estos derechos. **La Junta quiere que todos los votantes elegibles estén totalmente informados de sus derechos conforme a la ley Federal y cuando se celebren elecciones, quiere que ambos, los Empleadores y las Uniones, sepan que se espera de ellos.**

Si los agentes, ya sean de las Uniones o de los Empleadores, interfieren con su derecho de tener una elección libre, justa y honesta, ésta podría ser desestimada por la Junta. Cuando es apropiado, la Junta proporciona otros recursos, tales como la reincorporación de los empleados que fueron despedidos por ejercer sus derechos, incluyendo el pago retroactivo de la parte que fue responsable de sus despidos.

Los siguientes son ejemplos de conductas que interfieren con los derechos de los empleados y que pudieran resultar en una desestimación de la elección:

- Un empleador o la unión que amenace con la pérdida de trabajos o beneficios.
- Una de las partes capaces que promete u otorga promociones, aumento de sueldos, u otros beneficios para influenciar el voto del empleado.
- Un empleador que despide a empleados para desalentar o alentar la actividad de unión, o una unión que cause sus despidos para alentar la actividad de la unión.
- Dar discursos de campaña para congregar grupos de empleados en horas de trabajo, donde la asistencia es obligatoria, dentro del periodo de las 24 horas antes de que los centros de votación abran por primera vez, o que las papeletas de votación por correo sean despachadas.
- Un empleador o la unión que instigue prejuicios raciales o religiosos por medio de apelaciones inflamatorias.
- Una unión o un empleador que amenace a los empleados con fuerza física o violencia para influenciar sus votos.

La Junta Nacional de Relaciones del Trabajo protege su derecho a una libre selección.

No se permitirán conductas inapropiadas. Se espera que todas las partes cooperen totalmente con esta Agencia para mantener los principios básicos de elecciones justas como es requerido por la ley.

Cualquier persona con preguntas sobre una elección puede contactar a la Oficina de la JNRT al (702)388-6416 o visitar la página web de la JNRT www.nlrb.gov para ser asistido.

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የአሜሪካ መንግስት
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ
የምርጫ ማስታወቂያ

የምርጫው ዓላማ: ይህ ምርጫ የሚወክለው ሠራተኛ ከአሰሪዎ ጋር ለቡድን ተደራዳሪዎች አላማ ለመፈለግ የሚፈልጉትን ተወካይ መወሰን ነው. አብዛኛው የድምፅ መስጠት ድምፅ የምርጫውን ውጤት ይወስናል። በ 12 ወራት ጊዜ ውስጥ አንድ ትክክለኛ የውክልና ምርጫ ምርጫ ሊደረግ ይችላል።

የምስጢር ኮሮጆ: ምርጫው በሀገራዊ የሰራተኛ ግንኙነት ቦርድ (NLRB) የክልሉ ዳይሬክተር ቁጥጥር ስር በ SECRET ቅደም ተከተል አማካይነት ይሆናል. የህዝብ ድምፅ መስጫ ናሙና በምስሉ በሚቀጥለው ገጽ ላይ ይታያል. ድምጽ ሰጭዎች ጣልቃ ገብነት, ገደብ ወይም ግፊት ሳይደረግ ድምጽ እንዲሰጡ ይፈቀድላቸዋል. በምርጫው ቦታ ላይ ምርጫ ወይም የምርጫ ቦታ አይደረግም። የእነዚህ ደንቦች ጥሰቶች ወዲያውኑ ለ NLRB ተወካይ ሪፖርት ማድረግ አለበት. የእርስዎ ብሄራዊ የአሰሪና ሰራተኛ ግንኙነት ህግ ክፍል 12 ላይ ይጠየቃሉ።**ማንኛውም ግለሰብ ከማንኛውም የዲሬክተሩ አባል ወይም ከድርጅቱ አባል ወይም ወኪሎቹ ጋር በቅን ልቦለድ ወይም በድርጅቱ ውስጥ በሚፈጽሙት ተግባራት በሙሉ ከ 5,000 ዶላር በላይ ወይም በማስተርጎዝ ከአንድ ዓመት በላይ አይደለም።**

የብቃት ማረጋገጫዎች: ለመምረጥ ብቁ የሆኑ ሠራተኞች በሚቀጥለው ገጽ ውስጥ በ VOTING UNIT ውስጥ የተገለጹ እና በህመም ወይም በእረፍት ጊዜ ወይንም ለጊዜው ከስራ ውጭ ስለሆኑ ሰራተኛውን የማይሰሩ ሰራተኞችን እንዲሁም ሰራተኞችን በውትድርናው አገልግሎት ውስጥ ያካትታል. በአሜሪካ የምርጫ ታዛቢ ልዑክ ያሰለጥናቸው ናቸው. ከተመዘገበው የጊዜ ገደብ ጀምሮ ሥራውን ካቆሙ ወይም ከተሰናበቱበት ጊዜ ጀምሮ ሥራቸውን ካቆሙ ወይም ከተሰናበቱ ሠራተኞች መካከል የምርጫው ቀን ከመምጣቱ በፊት ሥራ ላይ ከዋለ ወይም እንደገና ካልተመለሱ።

ልዩ ድጋፍ: በዚህ ምርጫ ለመሳተፍ ማንኛውንም ሰራተኛ ወይም ሌላ ተካፋይ የሆነ, ወይም በእንደዚህ አይነት የምርጫ እንቅስቃሴ ውስጥ ለመሳተፍ እንደ የምልክት ቋንቋ አስተርጓሚ የመሳሰሉ ልዩ ተካፋይ ለ NLRB ጽ / ቤት በተቻለ ፍጥነት ማሳወቅ እና አስፈላጊውን እርዳታ መጠየቅ አለበት።

የድምፅ ሂደት: በምርጫው ቦታ ሲደርሱ, መራጮች ወደ የቦርድ ተወካይ በማቅረብ ስማቸውን በመጥቀስ መለየት አለባቸው።የቦርዱ ወኪል በእያንዳንዱ ብቁ መመዘኛ ላይ ለእራሳቸው ድምጽ መስጠያ ያቀርባል. ድምጽ ሰጪዎች ድምጽ መስጫ ቦታ ውስጥ ይገባሉ እና የድምፅ መስጫ ወረቀቱን በስውር ምልክት ያድርጉ. የእንቆቅልሽዎን ምልክት አይፅፉ. የድምፅ መስጫውን ከመውጣቱ በፊት የድምፅ መስጫውን ወረቀት ይስጡ, ከዚያም በግል ለቦርዱ ወኪል ቁጥጥር ስር በተቀመጠ የድምፅ መስጫ ሳጥን ውስጥ ያስቀምጡና የምርጫውን ቦታ ይተዉታል።

የተቃዋሚዎች ተፈታታኝ ሁኔታ: የመምረጥ መብትዎ ተቃውሞ ከተጠየቀ, ለተቃውሞ የድምጽ ምርጫ እንዲሰጡ ይፈቀድልዎታል. ለመምረጥ ብቁ መሆንዎን ቢያምኑም, ችግሩን ለመፍታት የምርጫው አካባቢ አይደለም. የቦርድ ተወካይ ስምዎን እና ሌሎች እንዲጠይቁ የተጠየቁትን መረጃ ይስጡ. የድምጽ መስጫ ወረቀት ከደረስዎ በኋላ ወደ ድምጽ መስጫ መሸፈጊ ቦታ ይሂዱ, ምልክት ማድረጊያ ምልክት ያድርጉበት እና ምልክትዎን በምስጢር ለማቆየት ይጣሉት. የእንቆቅልሽዎን ምልክት አይፅፉ. የድምጽ መስጫ ወረቀቱን በአንድ ፈታሽ ፖስታ ውስጥ እንዲያስቀምጡ, ፖስታውን በማተም, በድምጽ መስጫ ሳጥን ውስጥ ለማስቀመጥ, እና የምርጫውን ቦታ ለቀው እንዲወጡ ይጠይቃል. መመዘኛውዎን ካሟሉ በኋላ ቆይተው መፍትሔ ያገኛሉ።

የተፈቀደላቸው ጠባቂዎች-እያንዳንዱ ቡድን እኩል ቁጥር ያላቸው ታዛቢዎች ሊመርጡ ይችላሉ, ይህ ቁጥር በ NLRB ይወሰናል. እነዚህ ታዛቢዎች (ሀ) በምርጫ ጣቢያው እና በምርጫ ቆጠራ ላይ እንደ ቼክ ሆነው ይሠራሉ, (ለ) መራጮች ለመለየት ይረዳል, (c) መራጮችን እና የድምጽ መስጫ ፈተናዎችን በመግጠም; እና (d) አለበለዚያ NLRB ን ይረዳሉ።

ማስጠንቀቂያ *ይህ ምርጫ ብቻ ነው አፈሲላዊ ማስታወቂያ እና በማንም ሰው መተካት የለበትም በማንኛቸውም ሊያዩ የሚችሉ ማናቸውንም አርማዎችየምርጫ ቅጅ ናሙና ወይም በዚህ ማስታወቂያ ቦታ ላይ ያለ ማንኛውም ቦታ በብሔራዊ የሰራተኛ ግንኙነት ቦርድ ካልሆነ በስተቀር ሌላ ሰው አልተሰራምበብሔራዊ የሰራተኛ ግንኙነት ቦርድ እዛው ነበር የብሔራዊ የሰራተኛ ግንኙነት ቦርድ የዩናይትድ ስቴትስ ወኪል ነው መንግሥት በምርጫ ረገድ ምንም ዓይነት ምርጫን አይደግፍም።*

የአሜሪካ መንግስት
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ
የምርጫ ማስታወቂያ

ሠራተኞች ለመምረጥ ብቁ ይሆናሉ- ሁሉም የሙሉ ሰዓት እና መደበኛ የሙሉ ሰዓት አገልግሎት ሰጪዎች, ባርካዎች, ባር / የምግብ አልጋዎች, ባርትነርስ, ባጅ ባርትነርስ, የእንቆቅልሽ አስመጪዎች, የምግብ አገልግሎች, የአውቶቡስ ሰዎች, ኩኪዎች, ኩኪዎች, ምግብ አገልጋዮች, ረዳት የምግብ አገልጋዮች, እንግዳ ወኪሎች, አስተናጋጅ / ካሪ አካላት, የቤት ሰራተኞች, የመብራት ሰራተኞች, የመርዘሩ መተላለፊያዎች, የመርከብ አከፋፋይ ሰጭዎች, ሚድራ ባር ተከራዮች, አስመጪዎች, የክፍል ተሳፋሪዎች, የአገልግሎት ባርታንስስ, ሩዝነሮች, የቦታ ቦርድ, ልዩ ሙጫዎች, ምድጃዎች, የቡድን አባላት የቡና ቤት መያዣዎች, ፓርደሮች, ቪያትር ባር ቴነርስ, እና ቪዛ ባር / አስተናጋጅ ሰራተኞች በሳዝ ቬጋስ, ኔቫዳ በሚገኘው ፋብሪካው ውስጥ በሚቀጥለው ኤፕሪል 22, 2018 ላይ በሚቆየው የቀን መቁጠሪያ ወቅት።

ሰልጣኞች ለመምረጥ ብቁ አይደሉም: ሁሉም ሰራተኞች በስልሰተኝነት የሚሰሩ ሌሎች ሰዎች, ቤል ፐርሰንስ, እስፓርት, ቫሌት ፓርከስ, የቤቶች ቁላፊ ሱፐርቫይዘሮች, የጨዋታ ሰራተኞች (ኮማንደር, የሰዓት ቀጠሮዎች, ካባ እና ካሸላዎች ጨምሮ), አሽከርካሪዎች, የፉት ሰራተኞች, የምህንድስና እና የጥገና ሰራተኞች , የሕይወት አድን ሠራተኞችን, የስፓርት እና ሳሎን ሰራተኞችን, የቢሮ ሰራተኞችን, ምስጢራዊ ሠራተኛዎችን እና ሁሉም ጠባቂዎች, አስተዳዳሪዎች እና ተቆጣጣሪዎች በህጉ ላይ በተገለጸው መሰረት.

ሌሎች እንዲመረጡ ተፈቅዶላቸዋል: በዚህ ወቅት የደንብ ተቆጣጣሪዎች, ሞዴል ባር ፖዘሬዎች, ሞዴል ባርትነርስ እና ሞዴል መጠጦች (ሎተሪ ፖርሲንግ) አገልጋዮች የተከሉት ወይንም ከድርጅቱ ውስጥ እንዳይካተቱ አለመደረጉን እና በእነዚህ ደረጃዎች ውስጥ ያሉ ግለሰቦች ድምጽ መስጠት ይችላሉ. ሆኖም ግን የምርጫ መስፈርቶች ገና ካልተወሰነላቸው የምርጫ ቅስቀሳ ተካሂዶባቸዋል።እነዚህ ግለሰቦች የብቁነት ወይም ማካተት አስፈላጊ ከሆነ ምርጫውን ተከትሎ በተቻለ መፍትሄ ያገኛሉ።

ቀን, ሰዓት እና ቦታ የመምረጫ ቦታ

ቀን:	ጊዜያት :	ቦታ :
አርብ፣ ሚያዚያ 27, 2018 ቅዳሜ, ሚያዝያ 28, 2018	ከ 6:00AM እስከ 9:00AM ከ 11:00AM እስከ 2:00PM ከ 4:00 PM እስከ 7:00 PM	ግራንድ ቦል ሩም ሁለተኛ ፎቅ ፋንታሲ ታወር የሰራተኛ ፋሲሊቲ 4321 ምዕራብ ፍላሚንጎ መንገድ፣ ላስቬጋስ፣ ኔቫ

ማስጠንቀቂያ *ይህ ምርጫ ብቻ ነው ኦፊሴላዊ ማስታወቂያ እና በማንም ሰው መተካት የለበትም በማንኛቸውም ሊያዩ የሚችሉ ማናቸውንም አርማዎችየምርጫ ቅጅ ናሙና ወይም በዚህ ማስታወቂያ ቦታ ላይ ያለ ማንኛውም ቦታ በብሔራዊ የሰራተኛ ግንኙነት ቦርድ ካልሆነ በስተቀር ሌላ ሰው አልተሰራምበብሔራዊ የሰራተኛ ግንኙነት ቦርድ እዛው ነበር የብሔራዊ የሰራተኛ ግንኙነት ቦርድ የዩናይትድ ስቴትስ ወኪል ነው መንግሥት በምርጫ ረገድ ምንም ዓይነት ምርጫን አይደግፍም።*

የአሜሪካ መንግስት
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ
የምርጫ ማስታወቂያ

በማንኛውም ጊዜ ለመምረጥ ነፃ የሆኑ ሠራተኞች ሥራ ላይ ይውላሉ።

የመጨረሻው የምርጫ መስጫ መደምደሚያ ከተጠናቀቀ በኋላ ሁሉም ጠቋሚዎች መጠናቸውን እና ሊከመሩ ይችላሉ።

UNITED STATES OF AMERICA
ESTADOS UNIDOS DE AMERICA
የአሜሪካ መንግስት

National Labor Relations Board
Junta Nacional De Relaciones Del Trabajo
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ

28-RC-217964

28-አር ሲ -217964

OFFICIAL SECRET BALLOT
PAPELETA SECRETA OFICIAL
የታወቀ የምስጢር ኮሮጆ

For certain employees of
Para Ciertos Empleados De
ለታወቁ ሰራተኞች

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT

ኤፍ ሆልዲንጎች፣ ኤል ፒ. ዲ/ቢ/ኤ ፓልምስ የካሲኖ ሪዞርት

Do you wish to be represented for purposes of collective bargaining by
¿Desea usted estar representado para los fines de negociar colectivamente por
ለቡድን ድርድር ዓላማ ሲባል እንዲወከሉ ይፈልጋሉ ?

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS A/W UNITE HERE INTERNATIONAL UNION?

የላስቬጋስ የተቀናጀ ጠቅላይ ቦርድ

መቀላቀል ይፈልጋሉ አለም አቀፉን ህብረት ?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE
MARQUE CON UNA "X" DENTRO DEL CUADRO DE SU SELECCIÓN
ምርጫዎን X የሚለውን ማርክ ያድርጉ

YES SI አዎ	NO NO አይደለም
☐	☐

Sample

DO NOT SIGN THIS BALLOT. Fold and drop in the ballot box.
NO FIRME ESTA PAPELETA. Dóblela y depositela en la urna electoral.
እዚ ድምጽ መስጫ ላይ አይፈርሙ። ሞልተው ሲጨርሱ አጣጥፈው ወደ ሚስጥር ኮሮጆው ውስጥ ይጣሉ።

If you spoil this ballot, return it to the Board Agent for a new one.
Si usted daña esta papeleta devuélvala al Agente de la Junta y pídale una nueva.
ይህ ወረቀት ከተበላሸቦት ለቦርዱ ይመልሱና ሌላ ይቀበሉ።

The National Labor Relations Board does not endorse any choice in this election
Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board
በዚህ ሀገር ውስጥ ብሔራዊ የሰራተኛ ግንኙነት ቦርድ በዚህ ምርጫ ምንም አይወክልም።በማንኛውም የናሙና የምርጫ ማቅረቢያ
La Junta Nacional de Relaciones del Trabajo no respalda a ninguna de las opciones en esta elección
Cualquier marca que se pueda ver en cualquier muestra de la papeleta no fue hecha por la Junta Nacional de Relaciones del Trabajo
ላይ ሊያዩ የሚችሉ ማናቸውም ማርከዶች በብሔራዊ የሰራተኛ ግንኙነት ቦርድ አልተቀመጠም.

ማስጠንቀቂያ *ይህ ምርጫ ብቻ ነው አፈሌላዊ ማስታወቂያ እና በማንም ሰው መተካት የለበትም በማንኛቸውም ሊያዩ የሚችሉ ማናቸውንም አርማዎችየምርጫ ቅጅ ናሙና ወይም በዚህ ማስታወቂያ ቦታ ላይ ያለ ማንኛውም ቦታ በብሔራዊ የሰራተኛ ግንኙነት ቦርድ ካልሆነ በስተቀር ሌላ ሰው አልተሰራምበብሔራዊ የሰራተኛ ግንኙነት ቦርድ እዛው ነበር የብሔራዊ የሰራተኛ ግንኙነት ቦርድ የዩናይትድ ስቴትስ ወኪል ነው መንግሥት በምርጫ ረገድ ምንም ዓይነት ምርጫን አይደግፍም።*

የአሜሪካ መንግስት
ብሔራዊ የሰራተኛ ግንኙነት ቦርድ
የምርጫ ማስታወቂያ

የሰራተኞች መብቶች - ፌዴራላዊ ህግ ለርስዎ መብት ይሰጥዎታል:

- የሰራተኛ ማህበር ማቋቋም, መቀላቀል ወይም መደገፍ
- በእርስዎ ምትክ ከአሰሪዎ ጋር ለመደራደር ተወካዮች ይምረጡ
- ለእርስዎ ጥቅምና ጥበቃ ከሌሎች ሰራተኞች ጋር አብሮ ይውሰዱ
- ከእነዚህ ጥበቃ የሚደረግለት እንቅስቃሴ ውስጥ በአንዱ ውስጥ ላለመሳተፍ ይምረጡ
- እንደዚህ ዓይነት ስምምነቶች በሚፈቀዱበት ክልል ማህበሩ እና አሰሪው ህጋዊ ባልደረባነት ሊገባ ይችላል-የደመወዝ ክፍያ እና የአሰራር ክፍያን እንዲከፍሉ የሚያስገድድ የደህንነት ስምምነት. ማህበሩ ለተባበሩት መንግስታት ዓላማዎች ክፍያውን መጠቀምን እንደሚቃወሙ አባልነታቸውን ያላሳወቁ ባልደረቦች የሽምግልናውን, የኮንትራት አስተዳደርንና የአቤቱታ ማስተካከያዎችን የመሳሰሉ የሽያጭ ወጪዎች መክፈል ይኖርባቸዋል።

ሰራተኞቹን እነዚህን መብቶች ለማስከበር በብሔራዊ የሰራተኛ ግንኙነት ቦርድ ሃላፊነት ነው.

ቦርዱ በፌደራል ሕግ መሰረት ስለ መብታቸው ሙሉ ለሙሉ ብቃት ያላቸው መራጮች እንዲታቀፉ ይፈልጋል. እናም አሰሪዎችና ዩኒየኖች በምርጫው ወቅት ምን እንደሚጠበቅላቸው እንዲያውቁ ይፈልጋል.

የአንድ ዩኒቨርሲቲዎች ወይም ቀጣሪዎች ተወካዮች ነፃ, ፍትሀዊ, እና ሀቀኛ ምርጫዎን የመምረጥ መብትዎ በቦርድ ሊቀይሩ ይችላሉ. አስፈላጊ ሆኖ ሲገኝ, ቦርዱ የመብቱን ኃላፊነት በመተካት ለተጣለ ሰራተኞች እንደ መተዳደሪያ ደህንነቱ ተጠያቂ ለሆኑ ሠራተኞች መልሶ የመመለስን የመሳሰሉ ሌሎች መፍትሄዎችን ይሰጣል.

የሚከተሉት የሰራተኞችን መብቶች የሚያደናቅፉ ምግባሮችን ምሳሌዎች እና በምርጫው እንዲቀመጡ ሊያደርግ ይችላል.

- አሰሪ ወይም ማህበርን የሚቀጠሩ ስራዎችን ወይም ጥቅሞችን ማስፈራራት ማስፈራራት
- እነዚህን የሰጡትን ተስፋዎች ሊፈጽሙ በሚችል ፓርቲ የአንድ ሠራተኛ ድምጽ እንዲሰጡ ማስተዋወቂያን, የክፍያ ጭማሪን ወይም ሌሎች ጥቅሞችን እንደሚያስተዋውቅ ወይም በመስጠት,
- አሰሪ ሰራተኛ ሰራተኞች የሰራተኛ ማህበር እንቅስቃሴን ለማቃለል ወይም ለማበረታታት ማህበር እንቅስቃሴዎች ለማበረታታት እንዲነሳሳ ያደረጉትን ማህበር ያበረታታል
- የምርጫ ቅስቀሳ ከመጀመሩ በፊት ለመጀመሪያ ጊዜ ክፍት ከመደረጉ ወይም ፖስታ ፓርቲዎች የድምፅ መስጫ ወረቀት በፖስታ ቤት ምርጫ ከመድረሳቸው በፊት በ 24 ሰዓት ጊዜ ውስጥ ለተቀጠሩ ሰራተኞች በቡድን ጊዜ ለተወሰኑ የሥራ ቡድኖች ድምፃቸውን መግለጽ.
- በደም መንስዔ ወይም በሃይማኖት ምክንያት በዘር ወይም በሃይማኖት ምክንያት ጭፍን ጥላቻን ማነሳሳት
- በአንድ ማህበር ወይም በአሰሪ ላይ አሰሪዎችን ለመጫን የአካላዊ ኃይል ወይም ዓመፅ ማስፈራራት

ብሄራዊ የሰራተኛ ግንኙነት ቦርድ የመምረጥ መብትዎን ይከላከላል።

ተገቢ ያልሆነ ምግባር አይፈቀድም. ሁሉም ድርጅቶች በዚህ ኤጀንሲ ሙሉ በሙሉ በመተባበር በህግ በተደነገገው መሠረት ፍትሃዊ ምርጫ መሰረታዊ መርሆችን በመጠበቅ ይተባበራሉ ተብሎ ይጠበቃል.

የምርጫ ጥያቄ ካለ ማንኛውም ሰው NLRB ቢሮ በ (702) 388-6416 ወይም ወደ NLRB ድረገጽ www.nlrb.gov በመሄድ እርዳታ ሊያገኝ ይችላል።

ማስጠንቀቂያ *ይህ ምርጫ ብቻ ነው ኦፊሴላዊ ማስታወቂያ እና በማንም ሰው መተካት የለበትም በማንኛቸውም ሊያዩ የሚችሉ ማናቸውንም አርማዎችየምርጫ ቅጅ ናሙና ወይም በዚህ ማስታወቂያ ቦታ ላይ ያለ ማንኛውም ቦታ በብሔራዊ የሰራተኛ ግንኙነት ቦርድ ካልሆነ በስተቀር ሌላ ሰው አልተሰራምበብሔራዊ የሰራተኛ ግንኙነት ቦርድ እዛው ነበር የብሔራዊ የሰራተኛ ግንኙነት ቦርድ የዩናይትድ ስቴትስ ወኪል ነው መንግሥት በምርጫ ረገድ ምንም ዓይነት ምርጫን አይደግፍም።*

From: Moore, Dawn M.
To: Lipkin, Harriet; Harlow, Kevin; david.toner@dlapiper.com; Adam Stern; jsoto@local501.org
Subject: NP Lake Mead LLC d/b/a Fiesta Henderson Casino Hotel - Case 28-RC-218426
Date: Friday, April 27, 2018 4:37:16 PM
Attachments: image001.png
DDE.28-RC-218426.Decision and Direction of Election 4-27-18.pdf
NEE.28-RC-218426.Notice of Election.pdf

Please see the Decision and Direction of Election and Notice of Election attached.

Dawn M. Moore

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NATIONAL LABOR RELATIONS BOARD

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

NP LAKE MEAD LLC d/b/a
FIESTA HENDERSON CASINO HOTEL

Employer

and **Case 28-RC-218426**

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 501, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

International Union of Operating Engineers Local 501, AFL-CIO (Petitioner) seeks to represent a unit of full-time and regular part-time slot technicians and utility technicians (collectively, technicians) employed by NP Lake Mead LLC d/b/a Fiesta Henderson Casino Hotel (the Employer) at its Henderson, Nevada facility. The Employer asserts that Petitioner cannot be certified as the representative of the employees in the petitioned-for unit under Section 9(b)(3) of the National Labor Relations Act (the Act) because the unit includes guards, and Petitioner admits employees other than guards to membership. The Employer also requested the imposition of a ban on electronic devices in the voting area.

A hearing officer of the National Labor Relations Board (the Board) held a hearing in this matter, and the parties orally argued their respective positions prior to the close of the hearing. As explained below, based on the record and relevant Board decisions, I find the technicians are not guards. I further find that it is not appropriate for me to impose a ban on electronic devices in the voting area in these pre-election proceedings.

I. FACTS

The Employer operates the Fiesta Henderson Casino Hotel in Henderson, Nevada. The Employer's facility includes gaming space occupied, in part, by approximately 1,390 gaming machines.

The Employer employs approximately nine technicians: six slot technicians and three utility technicians. Generally, utility technicians set up and conduct field testing on the gaming machines, whereas slot technicians are responsible for maintaining the machines on the gaming floor. The slot technicians and utility technicians are responsible for maintaining and ensuring

proper working order of the gaming machines.[1] These technicians are involved in all aspects of machine conversions and relocations, and perform routine and advanced machine maintenance. Technicians work in the Slot Department, which is under the direction of Slot Director of Operations. Reporting to the Slot Director of Operations are a slot technicians manager, a technical project supervisor, a slot director, slot shift manager, and slot lead supervisors.

Technicians spend approximately 90 percent of their working time on the gaming floor. They are charged with installing, repairing, and maintaining various facets of the gaming machines, such as software, central processing units (CPUs), security locks, and "bill validators," which accept cash currency and vouchers from customers and screen for counterfeit notes.

In order to perform their work, technicians carry keys that provide access to the machines' CPUs. Guest service attendants, who are also in the Slot Department, are the only other employees who possess these keys. Technicians are responsible for ensuring that newly-installed gaming machines function correctly and that locks are properly placed. If a technician were to lose or to take keys off the property, then the technician may be subject to disciplinary action, up to and including termination. Technicians are responsible for interacting with agents of the Nevada Gaming Control Board (NGCB) to facilitate the NGCB's inspection of machines.

In addition to duties related to machine maintenance, technicians are tasked with performing various functions to protect gaming machines against fraud and improper manipulation, which could lead to financial losses for the Employer. Technicians investigate customer claims of machine malfunction, which, if verified, would lead to the Employer paying out a customer's legitimate winnings. If the customer's claim is not verified, then the claim would be denied. Moreover, technicians are responsible for remedying any machine malfunction, as well as performing manufacturer-recommended fixes that arise when vendors become aware of vulnerabilities or malfunctions in their machines.

Besides aiding with claims of gaming machine malfunction, technicians investigate possible fraud by customers. For example, a technician may be assigned to investigate whether there is evidence of tampering if there are irregular payouts on a machine. The Employer would not be able to detect certain kinds of fraud without the work performed by technicians. Due to their intimate knowledge of the gaming systems, technicians are prohibited from gambling at the Employer's facility.

All of the Employer's employees are obligated to be alert for evidence of other malfeasance such as underage gambling and drinking. Instances of underage gambling could lead to fines by the NGCB and the revocation of Employer's gaming license. Employees on the gaming floor, such as technicians, have a heightened responsibility. Technicians would report prohibited activity to their supervisor, manager, or security. Technicians' duties in this regard are no greater than other employees who work on the gaming floor. All employees are responsible for reporting underage gaming.

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[1] Herein jointly referred to as "technicians".

The Employer has a Security Department separate from its Slot Department with different management. Technicians do not carry handcuffs or weapons. They receive no training in typical security functions. They are not expected to restrain or apprehend guests or respond physically with force. Technicians wear black pants and blue shirts with tool belts. The record does not specify the uniform of security personnel other than it readily identifies them as security guards, with a black belt and a radio, and is different from the technicians' uniforms. The record does not reveal that the technicians are permitted to enter any surveillance room or that technicians are called upon to participate in "sting" operations to detect malfeasance by employees or customers. There is no record evidence that the technicians have any involvement in the reporting or investigations of other employees, except to the extent that inspection of a gaming machine might be required. The record lacks any evidence that technicians have an obligation to report employee misconduct beyond that of other employees.

Security personnel are tasked with investigating customer-related disturbances or suspected malfeasance by employees. The record reveals that security personnel are permitted to access bill validators if accompanied by technicians but do not have any role in gaining access to the CPUs of the machines. The record does not further detail whether security personnel access machines or are permitted to gamble at the Employer's facility. The record contains no evidence that security guards and technicians are interchangeable or that either is qualified to perform the other's work duties.

II. ANALYSIS

A. Non-Guard Status of Technicians

Section 9(b)(3) of the Act prohibits the Board from certifying a labor organization as the representative of a guard unit if the labor organization has members who are non-guard employees. The Employer asserts the technicians are guards because the core function of a technician is to enforce the Employer's rules and policies against guests and employees to safeguard the Employer's property and assets. The parties stipulated that Petitioner represents non-guard employees as a complement of its membership.

To be a guard under the Act, an individual must enforce rules to protect the property of the employer's premises against employees and other persons. *Reynolds Metal Co.*, 198 NLRB 120, 120 (1972). "[T]he Board has determined that employees are guards within the meaning of the Act if they are charged with guard responsibilities that are not a minor or incidental part of their overall responsibilities." *Boeing Co.*, 328 NLRB 128, 130 (1999).

"Guard responsibilities include those typically associated with traditional police and plant security functions, such as the enforcement of rules directed at other employees; the possession of authority to compel compliance with those rules; training in security procedures; weapons training and possession; participation in security rounds or patrols; the monitor and control of access to the employer's premises; and wearing guard-type uniforms or displaying other indicia

of guard status." *Id.* The Board has rejected the assertion that an employee's "responsibility to report security problems confers guard status." *Id*. at 131.

While the Employer instructs technicians, as part of their job duties, to report to the Employer evidence of tampering with gaming machines or other fraudulent conduct, "[a] reporting function alone, without significant security-related responsibilities, [does not] confer guard status." *Id*. In *Boeing*, the Board rejected an assertion firefighters who were required "to be alert for suspicious activity while on their tours and question unfamiliar individuals on the premises" as well as "report suspicious activity to the security department rather than deal directly with it themselves" were guards. *Id.* at 131. The Board determined that "to the extent that the firefighters'…duties conferred upon them some limited guard responsibilities, those responsibilities were only a minor and incidental part of their overall responsibilities…and, thus, do not transform the firefighters into statutory guards." *Id.* at 131.

The Employer has not supported its claim that technicians are guards. The evidence presented does not show that technicians enforce rules to protect property against employees and other persons. From the evidence of record, technicians do not perform any of the traditional guard responsibilities identified by the Board in *Boeing*. Technicians were not hired to perform any security functions, and perform no security functions beyond what would be expected of any other employees.

Any guard-like responsibilities conferred on technicians are, like the firefighters in *Boeing*, a minor and incidental part of their primary responsibility of providing services to guests gambling on the Employer's gaming machines. As stated above, technicians do not confront people but are instead expected to report to the Employer.

The Employer pointed to the circuit court decision in *Bellagio, LLC v. NLRB*, 863 F.3d 839 (D.C. Cir. 2017), in asserting that because technicians play in integral role in detecting and investigating loss and malfeasance in connection with gaming machines, technicians are guards. In that decision, the key issue was whether surveillance technicians were guards under the Act. In finding that the surveillance technicians were guards, the Court focused on four facts: (1) that certain surveillance/security personnel could not perform their job functions without the surveillance technicians, (2) the Board did not give due consideration to the status of security in modern casinos, (3) surveillance technicians could control what surveillance/security personnel viewed via surveillance camera due to their access to the equipment and surveillance-critical areas of the casino, and (4) surveillance technicians were tasked with enforcing rules against fellow employees.

The arguments asserted by the Employer have been previously raised in *Station GVR Acquisition, LLC*, Case 28-RC-203653, and in *NP Palace LLC*, Case 28-RC-211644. In both cases, I found that the petitioned-for units were not "guards" as defined under Section 9(b) (3) of the Act, and the Board denied the Employer's requests for review. *Station GVR Acquisition, LLC*, 2017 WL 5969305 (Nov. 30, 2017) (unpublished order); *NP Palace LLC*, 2018 WL

1782720 (Apr. 12, 2018) (unpublished order). The Board's reasoning in denying the Employer's request for review in *NP Palace LLC* is particularly instructive:

> In denying review, we agree with the Regional Director that the D.C. Circuit's decision in *Bellagio, LLC v. NLRB*, 863 F.3d 839 (D.C. Cir. 2017), is distinguishable. Unlike the employees at issue in *Bellagio*, the technicians in the present case play no special role in enforcing the Employer's rules against their coworkers and other persons beyond that of any other employee, do not control access to the Employer's surveillance technology or play a key role in its use, and do not otherwise enforce the Employer's rules in a security context. Instead, the technicians merely provide a defined, supportive role to investigators or state gaming agents through technical assistance at the request of the slot supervisors. In this respect, we reject the Employer's argument that the court's decision in *Bellagio* dispensed with the requirement that guards act to enforce the Employer's rules in a security context. Last, we observe that the technicians are part of the Employer's Slot Department, whose core function is to install and maintain the Employer's gaming machines, not the Employer's separate Security Department, which provides traditional guard services and otherwise handles the Employer's security needs.

NP Palace LLC, 2018 WL 1782720 fn.1.

In the instant case, the only factor that the technicians share with those technicians in *Bellagio* is that they work in a casino. The technicians' responsibilities here are distinct from security functions. I am, therefore, refusing to find that the Petitioner cannot be certified as the representative of technicians on that basis.

B. The Employer's Request to Ban Electronic Devices in the Voting Area

The Employer has requested that nobody be permitted to possess electronic devices in the polling area, positing that such devices could be used to pressure voters to "prove" how they voted. Section 102.64 of the Board's Rules and Regulations states that the purpose of pre-election hearings is to determine whether a question of representation exists. The Employer's request goes beyond that purpose, insofar as it raises an issue concerning the manner in which the election will be conducted. In any event, the Board agent assigned to conduct the election and the parties' observers can monitor the polling area to ensure electronic devices are not being used in a manner that will interfere with the required laboratory conditions for an election. If electronic devices are used in the polling area during the election in a manner that interferes with employees' free choice in the election, either party can raise the question of whether such conduct was objectionable in timely filed objections.

III. CONCLUSION

Based upon the entire record in this matter, including the stipulations of the parties, and in accordance with the discussion above, I conclude and find as follows:

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.[2]

3. Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.[3]

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

   Included: All full-time and regular part-time slot technicians and utility technicians employed by the Employer at its facility in Henderson, Nevada.

   Excluded: All other employees, office and clerical employees, guards, and supervisors as defined by the National Labor Relations Act.[4]

There are approximately 9 employees in the unit found appropriate.

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[2] I find, based on the stipulations of the parties and the record evidence, that the Employer, NP Lake Mead LLC d/b/a Fiesta Henderson Casino Hotel is a Nevada limited liability company with an office and place of business in Henderson, Nevada, and is engaged in the operation of a hotel and casino, providing gaming, lodging, entertainment, and dining services. During the 12-month period ending in April 13, 2018, the Employer, in conducting its business operations described above, purchased and received at its facility goods valued in excess of $5,000 directly from points outside the State of Nevada and derived gross revenues in excess of $500,000.

[3] The parties stipulated, and I find, that Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

[4] The unit found appropriate conforms with the unit sought by Petitioner, as amended. Although there is a dispute concerning whether the unit sought in the petition is inclusive of guard employees and therefore may not be represented by the Petitioner, the parties otherwise agreed that the petitioned-for unit, as amended, is appropriate under Section 9(b) of the Act.

IV. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Union of Operating Engineers Local 501, AFL-CIO.

A. Election Details

The election will be held on May 3, 2018, from 7:00 a.m. to 8:00 a.m. and 3:00 p.m. to 4:00 p.m. at the Employer's facility located at 777 West Lake Mead Parkway, Henderson, Nevada, in the Cancun III Banquet Room.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending April 22, 2018, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Tuesday, May 1, 2018**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.
Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Phoenix, Arizona, this 27th day of April, 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by SECRET ballot under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violations of these rules should be reported immediately to an NLRB agent. Your attention is called to Section 12 of the National Labor Relations Act which provides: ANY PERSON WHO SHALL WILLFULLY RESIST, PREVENT, IMPEDE, OR INTERFERE WITH ANY MEMBER OF THE BOARD OR ANY OF ITS AGENTS OR AGENCIES IN THE PERFORMANCE OF DUTIES PURSUANT TO THIS ACT SHALL BE PUNISHED BY A FINE OF NOT MORE THAN $5,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off, and also include employees in the military service of the United States who appear in person at the polls. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are *not* eligible to vote.

SPECIAL ASSISTANCE: Any employee or other participant in this election who has a handicap or needs special assistance such as a sign language interpreter to participate in this election should notify an NLRB Office as soon as possible and request the necessary assistance.

PROCESS OF VOTING: Upon arrival at the voting place, voters should proceed to the Board agent and identify themselves by stating their name. The Board agent will hand a ballot to each eligible voter. Voters will enter the voting booth and mark their ballot in secret. DO NOT SIGN YOUR BALLOT. Fold the ballot before leaving the voting booth, then personally deposit it in a ballot box under the supervision of the Board agent and leave the polling area.

CHALLENGE OF VOTERS: If your eligibility to vote is challenged, you will be allowed to vote a challenged ballot. Although you may believe you are eligible to vote, the polling area is not the place to resolve the issue. Give the Board agent your name and any other information you are asked to provide. After you receive a ballot, go to the voting booth, mark your ballot and fold it so as to keep the mark secret. DO NOT SIGN YOUR BALLOT. Return to the Board agent who will ask you to place your ballot in a challenge envelope, seal the envelope, place it in the ballot box, and leave the polling area. Your eligibility will be resolved later, if necessary.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the voting place and at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board
NOTICE OF ELECTION

VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

All full-time and regular part-time slot technicians and utility technicians employed by the Employer at its facility in Henderson, Nevada who were employed during the payroll period ending April 22, 2018.

EMPLOYEES NOT ELIGIBLE TO VOTE:

All other employees, office and clerical employees, guards, and supervisors as defined by the National Labor Relations Act.

DATE, TIMES AND PLACE OF ELECTION

DATE:	TIMES:	PLACE:
Thursday, May 3, 2018	7:00 a.m. to 8:00 a.m. and 3:00 p.m. to 4:00 p.m.	Cancun III Banquet Room 777 West Lake Mead Parkway Henderson, Nevada

EMPLOYEES ARE FREE TO VOTE AT ANY TIME THE POLLS ARE OPEN.

ALL BALLOTS WILL BE CO-MINGLED AND COUNTED AT THE END OF THE LAST VOTING SESSION.

UNITED STATES OF AMERICA
National Labor Relations Board
28-RC-218426

OFFICIAL SECRET BALLOT

For certain employees of

NP LAKE MEAD LLC D/B/A FIESTA HENDERSON CASINO HOTEL

Do you wish to be represented for purposes of collective bargaining by

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE

YES	NO
☐	☐

DO NOT SIGN THIS BALLOT. Fold and drop in the ballot box.

If you spoil this ballot, return it to the Board Agent for a new one.

The National Labor Relations Board does not endorse any choice in this election.

Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.

Sample

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- **Form, join, or assist a union**
- **Choose representatives to bargain with your employer on your behalf**
- **Act together with other employees for your benefit and protection**
- **Choose not to engage in any of these protected activities**
- **In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).**

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- **Threatening loss of jobs or benefits by an Employer or a Union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched in a mail ballot election**
- **Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a Union or an Employer to influence their votes**

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (702)388-6416 or visit the NLRB website www.nlrb.gov for assistance.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

From:	Moore, Dawn M.
To:	Lipkin, Harriet; jsoto@local501.org
Subject:	Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resorts Spa Casino - Cases 28-CA-211043 and 28-CA-216411
Date:	Friday, April 27, 2018 5:38:11 PM
Attachments:	image001.png CPT.28-CA-211043.CCNOH 4-27-18.pdf

Please see the attached document.

Dawn M. Moore

Administrative Assistant
Region 28 – Las Vegas Resident Office
National Labor Relations Board
Foley Federal Building
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101-5833
Tel: (702) 820-7466
Fax: (702) 388-6248

NATIONAL LABOR RELATIONS BOARD

Save a tree ~ Don't print me!

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

STATION GVR ACQUISITION, LLC D/B/A GREEN VALLEY RANCH RESORTS SPA CASINO

and

Cases 28-CA-211043
28-CA-216411

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO

ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT AND NOTICE OF HEARING

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, **IT IS ORDERED THAT** Case 28-CA-211043 and Case 28-CA-216411, which are based on charges filed by International Union of Operating Engineers Local 501, AFL-CIO (the Union) against Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resorts Spa Casino (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq. and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1. (a) The charge in Case 28-CA-211043 was filed by the Union on December 5, 2017, and a copy was served on Respondent by U.S. mail on the same date.

(b) The charge in Case 28-CA-216411 was filed by the Union on March 8, 2018, and a copy was served on Respondent by U.S. mail on March 13, 2018.

(c) The first amended charge in Case 28-CA-216411 was filed by the Union on March 22, 2018, and a copy was served on Respondent by U.S. mail on March 23, 2018.

2. (a) At all material times, Respondent has been a limited-liability company with an office and place of business in Henderson, Nevada (Respondent's facility), and has been engaged in operating a hotel and casino.

(b) In conducting its operations during the 12-month period ending December 5, 2017, Respondent in conducting its operations described above in paragraph 2(a), purchased and received at Respondent's facility goods valued in excess of $50,000 directly from points outside the State of Nevada.

(c) In conducting its operations during the 12-month period ending December 5, 2017, Respondent derived gross revenues in excess of $500,000.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act):

Sheila Lee	-	Director of Human Resources
Valerie Mural	-	Senior Vice President of Human Resources

5. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time, regular part-time, and extra board slot technicians and utility technicians employed by the Employer at its Henderson, Nevada facility, excluding all other employees, office clerical employees, guards, and supervisors as defined in the Act.

(b) On or about October 16, 2017, the Regional Director issued a Decision and Certification of Representative, certifying the Union as the exclusive collective-bargaining representative of the Unit.

(c) At all times since October 16, 2017, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

6. (a) About November 6, 2017, the Union has requested, in writing, that Respondent furnish the Union with the following information:

(1) A list of current employees including their names, dates of hire, rates of pay, job classification, last known address, phone number, date of completion of any probationary period, and social security number;

(2) Copies of all current job descriptions;

(3) Copies of all disciplinary notices, warnings or records of disciplinary personnel actions for the last 24 months;

(4) A copy of all company fringe benefit plans including retirement, sick time, profit sharing, severance, stock incentive, vacation, health and welfare, apprenticeship, training, education, legal services, child care or any plans which relate to the employees;

(5) Copies of any company wage or salary plans;

(6) A copy of all current company personnel policies, practices and procedures;

(7) Copies of all contract agreements related with Property Management and/or owner(s);

(8) Copies of all Covenants, Conditions and Restrictions (CCM and/or any additional information related to said agreements in the above; and

(9) Complete Enclosed Employer Contact Information Request Form (E411)

(b) Since about March 8, 2018, the Union has requested in writing that Respondent furnish the Union with the following information:

(1) Please provide your policy and procedures in regards to slot tournaments;

(2) How often are slot tournaments held at Green Valley Ranch Hotel and Casino;

(3) What type of notice is provided for special projects, like slot tournaments; and

(4) What are the safety policies in regards to installs, conversions and preventative maintenance to slot machines when tournaments take place.

(c) The information requested by the Union, as described above in paragraphs 6(a) and 6(b) is necessary for, and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(d) Since about November 6, 2017, Respondent has failed and refused to furnish the Union with the information requested by it as described above in paragraph 6(a).

(e) Since about March 8, 2018, Respondent has failed and refused to provide the Union with the information as described above in paragraph 6(b).

(f) Since about March 8, 2018, Respondent has changed the amount of notice given to bargaining unit employees when their work schedules are changed.

(g) The subject set forth above in paragraph 6(f), relate to wages, hours, and other terms and conditions of employment of the Unit and is a are mandatory subject for the purposes of collective bargaining.

(h) Respondent engaged in the conduct described above in paragraph 6(f) without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to the conduct and effects of the conduct described above in paragraph 6(f).

(i) About March 8, 2018, the Union requested Respondent bargain collectively about the conduct and the effects of the conduct described above in paragraph 6(f).

(j) Since about March 8, 2018, Respondent has failed and refused to bargain collectively about the subjects set forth above in paragraph 6(f).

7. By the conduct described above in paragraph 6 Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

8. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. The

answer must be **received by this office on or before May 11, 2018, or postmarked on or before May 10, 2018.** Respondent should file an original copy of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **E-File Documents,** enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find,

pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE that on a date and at a time to be determined, at the Hearing Room, National Labor Relations Board, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, Nevada, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Phoenix, Arizona, this 27th day of April 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

Attachments

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Cases 28-CA-211043 and 28-CA-216411

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

(1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).

(2) Grounds must be set forth in ***detail***;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and

(5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Station GVR Acquisition, LLC d/b/a
Green Valley Ranch Resorts Spa Casino
2300 Paseo Verde Parkway
Henderson, NV 89052

Harriet Lipkin, Attorney at Law
DLA Piper LLP (US)
500 8th Street NW
Washington, DC 20004-2131

Jose Soto, Director of Organizing
International Union of Operating Engineers
Local 501, AFL-CIO
301 Deauville Street
Las Vegas, NV 89106

Form NLRB-4668
(6-2014)

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative**. If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlrb.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlrb.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.

- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence**: At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits: Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing.

If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts**: An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.

- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

- **Date for Filing Post-Hearing Brief**: Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.

- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.

- **Exceptions to the ALJ's Decision**: The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

From:	Blackburn-Jorgensen, Stephanie E
To:	harriet.lipkin@dlapiper.com; drosenfeld@unioncounsel.net
Subject:	28-CA-218622 NP Palace LLC d/.b/a Palace Station Hotel & Casino
Date:	Wednesday, May 2, 2018 4:20:34 PM
Attachments:	28-CA-218622.Complaint and Notice of Hearing.PDF

Please see the attached Complaint and Notice of Hearing in the above case.

Thank you.

Stephanie Blackburn-Jorgensen
National Labor Relations Board
Region 28, Albuquerque Resident Office
505-313-7216 Fax: 505-206-5695

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

NP PALACE LLC d/b/a PALACE STATION HOTEL & CASINO

and **Case 28-CA-218622**

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by the International Union of Operating Engineers Local 501, AFL-CIO (the Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that NP Palace LLC d/b/a Palace Station Hotel & Casino (Respondent, has violated the Act as described below.

1. The charge in this proceeding was filed by the Union on April 18, 2018, and a copy was served on Respondent by U.S. mail on the same date.

2. (a) At all material times, Respondent has been a limited liability company with an office and place of business in Las Vegas, Nevada (Respondent's facility), and has been engaged in operating a hotel casino.

(b) During the 12-month period ending April 18, 2018, Respondent in conducting its operations described above in paragraph 2(a), purchased and received at Respondent's facility goods valued in excess of $50,000 directly from points outside the State of Nevada.

(c) In conducting its operations during the 12-month period ending April 18, 2018, Respondent derived gross revenues in excess of $500,000.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. (a) At all material times, Valerie Murzl has held the position of Corporate Vice President of Human Resources and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

(b) At all material times, Respondent's counsel have been agents of Respondent within the meaning of Section 2(13) of the Act.

5. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time slot technicians and utility technicians employed by the Employer at its Las Vegas, Nevada facility; excluding, all other employees, office clerical employees, professional employees, guards, and supervisors as defined in the Act.

(b) On about January 18, 2018, the Regional Director for Region 28 of the Board issued a Certification of Representative, certifying the Union as the exclusive collective-bargaining representative of the Unit.

(c) At all times since about January 18, 2018, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

(e) Since about January 22, 2018, the Union has requested that Respondent recognize and bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

(f) Since about January 22, 2018, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

(g) Since about January 22, 2018, the Union has requested in writing that Respondent furnish the Union with the following information:

(1) A list of current bargaining unit employees including their names, dates of hire, rates of pay, job classification, last known address, phone number, and date of completion of any probationary period.

(2) Copies of all manuals, training materials, documentation, memoranda, communications and policies related to the operation of any work distribution system currently in use.

(3) A copy of all current company policies, practices and/or procedures bargaining unit members are expected to follow.

(4) A copy of all departmental policies, practices and/or procedures that bargaining unit members are expected to follow.

(5) Copies of all current job descriptions for all bargaining unit members, including but not limited to information regarding required professional and/or technical licenses.

(6) Copies of all job descriptions for non-bargaining unit personnel assigned to supervise bargaining unit members, including but not limited to information regarding required professional and/or technical licenses.

(7) Copies of all disciplinary notices, warnings or records of disciplinary actions involving bargaining unit members occurring July 1, 2012 or later.

(8) Copies of all job bids posted July 1, 2012 or later involving bargaining unit members, and the results of those bids.

(9) Copies of all shift schedules for bargaining unit members effective January 1, 2015 or later.

(10) Copies of all written customer complaints involving bargaining unit members. Please also provide copies of all internal memorandums concerning oral customer complaints. If the complaints were oral and there is no written record, please provide a description of each such complaint including the customer's name, nature of complaint, employee involved and disposition both with respect to the complaint as well as any discipline which might have been imposed.

(11) Copies of all OSHA 300 Logs from July 1, 2012 through now.

(12) Copies of all OSHA Forms 301 from July 1, 2012 through now.

(13) Copies of all safety committee minutes from July 1, 2012 through now.

(h) Since about January 31, 2018, the Union has requested in writing that Respondent furnish the Union with the following information:

(1) A list of current employees including their names, dates of hire, rates of pay, job classification, last known address, phone number, date of completion of any probationary period, and social security number.

(2) Copies of all current job descriptions.

(3) A copy of all company fringe benefit plans including retirement, sick time, profit sharing, severance, stock incentive, vacation, health and welfare, apprenticeship, training, education, legal services, child care or any plans which relate to the employees.

(4) Copies of any company wage or salary plans.

(5) A copy of all current company personnel policies, practices and procedures.

(j) The information requested by the Union, as described above in paragraphs 5(g) and (h), is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(k) Since about January 22, 2018, Respondent, by its counsel, in writing, has failed and refused to furnish the Union with the information requested by it as described above in paragraph 5(g).

(l) Since about January 31, 2018, Respondent, by its counsel, in writing, has failed and refused to furnish the Union with the information requested by it as described above in paragraph 5(h).

6. By the conduct described above in paragraph 5, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

7. The unfair labor practice of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

The Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to this complaint. The answer must be **received by this office on or before May 16, 2018, or postmarked on or before May 15, 2018.** Respondent should file an original copy of the answer with this office. Respondent should serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **File Case Documents,** enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure

because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on a date and at a time to be determined, at the Hearing Room, National Labor Relations Board, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, Nevada, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the

hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Phoenix, Arizona, this 2nd day of May 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

Attachments

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 28-CA-218622

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

(1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).

(2) Grounds must be set forth in ***detail***;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and

(5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

NP Palace LLC d/b/a Palace
Station Hotel & Casino
2411 West Sahara Avenue
Las Vegas, NV 89102-4377

Harriet Lipkin, Attorney at Law
DLA Piper LLP (US)
500 8th Street NW
Washington, DC 20004-2131

International Union of Operating
Engineers, Local 501, AFL-CIO
301 Deauville Street
Las Vegas, NV 89106-3912

David A. Rosenfeld, Attorney at Law
Weinberg Roger & Rosenfeld
1001 Marina Village Parkway, Suite. 200
Alameda, CA 94501-6430

Form NLRB-4668
(6-2014)

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlrb.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlrb.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.

- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence**: At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits: Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing.

(OVER)

If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts**: An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.

- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

- **Date for Filing Post-Hearing Brief**: Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.

- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.

- **Exceptions to the ALJ's Decision**: The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

From:	Moore, Dawn M.
To:	Lipkin, Harriet; Harlow, Kevin; jsoto@local501.org
Subject:	Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino - Cases 28-CA-211043 and 28-CA-216411
Date:	Tuesday, May 8, 2018 1:54:22 PM
Attachments:	image001.png MOT.28-CA-211043.Motions to Transfer and Partial Summary Judgment 5-8-18.pdf

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Please see the attached document.

Dawn M. Moore

Administrative Assistant
Region 28 – Las Vegas Resident Office
National Labor Relations Board
Foley Federal Building
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101-5833
Tel: (702) 820-7466
Fax: (702) 388-6248

NATIONAL LABOR RELATIONS BOARD

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

STATION GVR ACQUISITION, LLC d/b/a
GREEN VALLEY RANCH RESORT SPA CASINO

and **Cases 28-CA-211043**
28-CA-216411

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 501, AFL-CIO

MOTIONS TO TRANSFER AND CONTINUE MATTER BEFORE THE BOARD AND FOR PARTIAL SUMMARY JUDGMENT

The General Counsel, by the undersigned Counsel for the General Counsel, hereby files with the National Labor Relations Board (the Board) pursuant to Sections 102.24 and 102.50 of the Board's Rules and Regulations, Series 8, as amended (the Board's Rules), these motions to transfer and continue matter before the Board and for partial summary judgment with respect to the information requests made by International Union of Operating Engineers Local 501, AFL-CIO (the Union) to Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino (Respondent) and, in support of said motions, alleges as follows:

1. On April 12, 2018, the Board issued its decision in *Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino*, 366 NLRB No. 58 (2018), granting the General Counsel's Motion for Summary Judgment and finding that the Union is the exclusive collective-bargaining representative of the following appropriate unit of employees (the Unit):

> Included: all full-time, regular part-time, and extra board slot technicians and utility technicians employed by [Respondent] at its Henderson, Nevada facility.
>
> Excluded: excluding all other employees, office clerical employees, guards, and supervisors as defined in the Act.

In its decision, the Board noted that Respondent's argument that employees are guards as defined in Section 9(b)(3) of the Act had been previously raised and rejected in the underlying representation proceeding.

2. On December 5, 2017, the Union filed the charge in Case 28-CA-211043, against Respondent, alleging violations of Section 8(a)(1) and (5) of the Act. A copy of this charge was served on Respondent by U.S. mail on the same date. Copies of this charge and the affidavit of service are attached as Exhibits 1 and 2, respectively.

3. On March 8, 2018, the Union filed the charge in Case 28-CA-216411, against Respondent, alleging violations of Section 8(a)(1) and (5) of the Act. A copy of this charge was served on Respondent by U.S. mail on March 13, 2018. Copies of this charge and the affidavit of service are attached as Exhibits 3 and 4, respectively.

4. On March 22, 2018, the Union filed the first amended charge in Case 28-CA-216411, against Respondent, alleging violations of Section 8(a)(1) and (5) of the Act. A copy of this charge was served on Respondent by U.S. mail on March 23, 2018. Copies of this charge and the affidavit of service are attached as Exhibits 5 and 6, respectively.

5. On April 27, 2018, the Regional Director for Region 28 of the Board issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing (the Consolidated Complaint) in Cases 28-CA-211043 and 28-CA-216411, alleging in pertinent part:

a. that since about October 16, 2017, the Union has been the exclusive collective-bargaining representative of the unit;

b. that about November 6, 2017, the Union has requested that Respondent furnish the Union with the following information:

(1) A list of current employees including their names, dates of hire, rates of pay, job classification, last known address, phone number, date of completion of any probationary period, and social security number;

(2) Copies of all current job descriptions;

(3) Copies of all disciplinary notices, warnings or records of disciplinary personnel actions for the last 24 months;

(4) A copy of all company fringe benefit plans including retirement, sick time, profit sharing, severance, stock incentive, vacation, health and welfare, apprenticeship, training, education, legal services, child care or any plans which relate to the employees;

(5) Copies of any company wage or salary plans;

(6) A copy of all current company personnel policies, practices and procedures;

(7) Copies of all contract agreements related with Property Management and/or owner(s);

(8) Copies of all Covenants, Conditions and Restrictions (CCM and/or any additional information related to said agreements in the above; and

(9) Complete Enclosed Employer Contact Information Request Form (E411)

c. that about March 8, 2018, the Union has requested that Respondent furnish the Union with the following information:

(1) Please provide your policy and procedures in regards to slot tournaments;

(2) How often are slot tournaments held at Green Valley Ranch Hotel and Casino;

(3) What type of notice is provided for special projects, like slot tournaments; and

(4) What are the safety policies in regards to installs, conversions and preventative maintenance to slot machines when tournaments take place.

Copies of the Consolidated Complaint and the affidavit of service are attached as Exhibits 7 and 8, respectively.

6. On May 3, 2018, Respondent filed an Answer to the Consolidated Complaint (Answer). A copy of Respondent's Answer is attached as Exhibit 9. In its Answer, Respondent admits the operative paragraphs of the Consolidated Complaint, including the requests for information described above in paragraphs 5(b) and 5(c). In its Answer, Respondent denies the appropriateness of the Union, asserting that the unit employees are guards as defined by the Act. While admitting that it failed and refused to furnish the Union with the information requested by it as described above in paragraphs 5(b) and 5(c), Respondent denies that the requested information is necessary for and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

7. Respondent does not assert that newly discovered or previously unavailable evidence has come to light since the Board issued its decision in *Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino* on April 12, 2018. Nor does Respondent allege any special circumstances that would require the Board to reexamine its decision.

8. Well-established Board and Court case authority holds that a party may not relitigate, in an unfair labor practice proceeding, representation issues that were, or could have been, litigated in a prior representation proceeding. *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 159-163 (1941); *Delek Refining, Ltd.*, 363 NLRB No. 41 (Nov. 13, 2015); *Fedex Freight, Inc.*, 362 NLRB No. 140 (June 30, 2015); *The George Washington University*, 346 NLRB 155 (2005), enfd. per curiam 2006 WL 4539237 (D.C. Cir. 2006); *Ovid Convalescent*

Manor, Inc., 264 NLRB 774, 775 (1982), enfd. mem. 732 F.2d 155 (6th Cir. 1984); *Lighthouse for the Blind of Houston*, 248 NLRB 1366, 1367 (1980), enfd. 696 F.2d 399 (5th Cir. 1983); *Boatel, Inc.*, 204 NLRB 896, 897 (1973), enfd. mem. 490 F.2d 990 (5th Cir. 1974); *Keco Industries, Inc.*, 191 NLRB 257, 258 (1971), enfd. 458 F.2d 1356 (6th Cir. 1972); *General Dynamics Corp.*, 187 NLRB 679, 680 (1971), enfd. per curiam 447 F.2d 1370 (5th Cir. 1971); *Westinghouse Broadcasting Company, Inc.*, 218 NLRB 693 (1975).

9. With respect to the Union's requests for information described above in paragraphs 5(b) and 5(c), Respondent admits that the Union requested the information and that it failed and refused to provide it to the Union. Respondent denies that that the information requested is necessary for and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the employees in the Unit. The information requested goes to the terms and conditions of the employees in the Unit or with whom the Union will be bargaining on behalf of the employees in the Unit and is presumptively relevant. See, e.g., *Maple View Manor*, 320 NLRB 1149 (1996).

WHEREFORE, Counsel for the General Counsel respectfully moves:

A. That in order to expedite judgment in this unfair labor practice case, it be transferred to and continued before the Board for decision. Precedent for summarily adjudicating refusals to bargain in test-of-certification situations is well grounded, and routinely survives due process challenges. See, e.g., *NLRB v. Tallahassee Coca-Cola Bottling Co., Inc.*, 409 F.2d 201, 203 (5th Cir. 1969); *NLRB v. Union Brothers, Inc.*, 403 F.2d 883, 886-888 (4th Cir. 1968); cf. *NLRB v. Tennessee Packers, Inc.*, 379 F.2d 172, 177-178 (6th Cir. 1967), cert. denied 389 U.S. 958 (1967) (consent election).

B. That the Board find the pleadings with respect to the requests for information (paragraphs 6(a) through 6(e) of the Consolidated Complaint) to reveal no

controversy as to any relevant or material fact that would necessitate a hearing or an administrative law judge's decision.

C. That these Motions be ruled upon as soon as possible, so that, if it is granted, a hearing will be obviated.

D. That the Board find that the pleadings establish Respondent has violated Section 8(a)(1) and (5) of the Act, as alleged in paragraphs 6(a) through 6(e) of the Consolidated Complaint.

E. That the Board issue a Decision and Order containing findings of fact, conclusions of law, and a remedial order consistent with the conclusion that Section 8(a)(1) and (5) of the Act have been, and are being violated, including an order that the initial certification year shall be deemed to begin on the date Respondent commences to bargain in good faith with the Union as the certified bargaining representative of the employees in the appropriate Unit. *Campbell Soup Company*, 224 NLRB 13 (1976), enfd. 553 F.2d 96 (4th Cir 1977).

Dated at Las Vegas, Nevada, this 8th day of May 2018.

Respectfully submitted,

/s/ *Elise F. Oviedo*

Elise F. Oviedo, Attorney
Counsel for the General Counsel
National Labor Relations Board
Region 28 - Las Vegas Resident Office
300 Las Vegas Blvd. South, Ste. 2-901
Las Vegas, NV 89101-5833
Telephone: (702) 820-7470
Facsimile: (702) 388-6248
Email: Elise.Oviedo@nlrb.gov

CERTIFICATE OF SERVICE

I hereby certify that the **MOTIONS TO TRANSFER AND CONTINUE MATTER BEFORE THE BOARD AND FOR PARTIAL SUMMARY JUDGMENT** in STATION GVR ACQUISITION, LLC d/b/a GREEN VALLEY RANCH RESORT SPA CASINO, Cases 28-CA-211043 and 28-CA-216411, was served via E-Gov, E-Filing; E-Mail on this 8th day of May 2018, on the following:

Via E-Gov, E-Filing:

Gary W. Shinners, Executive Secretary
National Labor Relations Board
Office of the Executive Secretary
1015 Half Street SE – Room 5011
Washington, DC 20570

Via E-Mail:

Harriet Lipkin, Attorney at Law
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500 Eighth Street NW
Washington, D.C. 20004
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Kevin Harlow, Attorney at Law
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401 B Street, Suite 1700
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Email: Kevin.Harlow@dlapiper.com

Jose Soto, Director of Organizing
International Union of Operating Engineers
Local 501, AFL-CIO
301 Deauville Street
Las Vegas, NV 89106
E-Mail: jsoto@local501.org

/s/ Dawn M. Moore

Dawn M. Moore
Administrative Assistant
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Facsimile: (702) 388-6248
E-Mail: Dawn.Moore@nlrb.gov

FORM EXEMPT UNDER 44 U.S.C 3512

INTERNET FORM NLRB-501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case: 28-CA-211043 | Date Filed: December 5, 2017

INSTRUCTIONS:
File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer
Station GVR Acquisition, LLC

b. Tel. No. (702) 617-7679

c. Cell No.

f. Fax No. (702) 617-7559

d. Address *(Street, city, state, and ZIP code)*
Green Valley Ranch Hotel and Casino
2300 Paseo Verde Parkway
Henderson, NV

e. Employer Representative
Sheila Lee
Labor Relations Manager

g. e-Mail
sheila.lee@stationscasino.com

h. Number of workers employed
1000

i. Type of Establishment *(factory, mine, wholesaler, etc.)*
Hotel and Casino

j. Identify principal product or service
Gaming and Hospitality

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and *(list subsections)* 8(a)5 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge *(set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)*

Within the last six months the employer has failed to bargain collectively and in good faith with the International Union of Operating Engineers, Local 501, AFL-CIO by refusing to provide information for the purpose of collective bargaining and refusing to execept Local 501 as the exclusive bargaining representative.

By these and other acts the above named employer has restrained and coerced employees in the exercise of their Section 7 rights guranteed to them under the National Labor Relations Act.

3. Full name of party filing charge *(if labor organization, give full name, including local name and number)*
International Union of Operating Engineers Local 501, AFL-CIO

4a. Address *(Street and number, city, state, and ZIP code)*
301 Deauville St
Ls Vegas, NV 89108

4b. Tel. No. (702) 382-8452

4c. Cell No. (702) 622-0846

4d. Fax No.

4e. e-Mail
jsoto@loacal501.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit *(to be filled in when charge is filed by a labor organization)* International Union of Operating Engineers Local 501, AFL-CIO

6. DECLARATION
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By [signature]
(signature of representative or person making charge)

Jose Soto (Director of Organizing)
(Print/type name and title or office, if any)

Tel. No. (702) 382-8452

Office, if any, Cell No. (702) 622-0846

Fax No.

e-Mail jsoto@local501.org

Address 301 Deauville St Las Vegas NV 89106

12/5/17
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Exhibit 1

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

STATION GVR ACQUISITION, LLC Charged Party and **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO** Charging Party	**Case 28-CA-211043**

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on December 5, 2017, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Harriet Lipkin, Attorney at Law
DLA Piper LLC (US)
500 8th St NW
Washington, DC 20004-2131

Station GVR Acquisition, LLC
Green Valley Ranch Hotel and Casino
2300 Paseo Verde Parkway
Henderson, NV 89052

December 5, 2017

Date	Timothy M. Russell, Designated Agent of NLRB Name
	/s/ Timothy M. Russell Signature

Exhibit 2

FORM EXEMPT UNDER 44 U.S.C 3512

INTERNET FORM NLRB-501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case: 28-CA-216411

Date Filed: March 8, 2018

INSTRUCTIONS:
File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer
Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resorts Spa Casino

b. Tel. No. (702) 495-3000

c. Cell No.

f. Fax No.

d. Address *(Street, city, state, and ZIP code)*
2300 Paseo Verde Parkway
Henderson, NV 89052-2672

e. Employer Representative
Valerie Murzl,Senior Vice President of Human Resources

g. e-Mail
valerie.murzl@stationcasinos.c

h. Number of workers employed
1000

i. Type of Establishment *(factory, mine, wholesaler, etc.)*
Hotel and casino

j. Identify principal product or service
Gaming and Hospitality

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and *(list subsections)* 8(a)1 8(a)5 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge *(set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)*

Within the last six months, the above named employer, through its officers, agents and representatives, has failed to bargain in good faith by refusing to negotiate with, or recognize the Internaional Union of Operating Engineers Local 501, AFL-CIO as the certified exclusive bargaining representative of all full-time slot technicians and utility technicians employed by the above named employer at it's Henderson, Nevada facility.

By these and other acts, the above-named Employe, has interfered, and coerced its employees in the exercise of rights guaranteed by Section 7 of the National labor Relations Act.

3. Full name of party filing charge *(If labor organization, give full name, including local name and number)*
International Union of Operating Engineers, Local 501 AFL-CIO

4a. Address *(Street and number, city, state, and ZIP code)*
301 Deauville St, Las Vegas, NV 89106-3912

4b. Tel. No. (702)382-8452

4c. Cell No. (702)622-0846

4d. Fax No.

4e. e-Mail
jsoto@local501.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit *(to be filled in when charge is filed by a labor organization)* International Union of Operating Engineers, Local 501 AFL-CIO

6. DECLARATION
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Tel. No. (702)382-8452

By *(signature of representative or person making charge)*

Jose Soto (Director of Organizing)
(Print/type name and title or office, if any)

Office, if any, Cell No.
(702)622-0846

Fax No.

e-Mail
jsoto@local501.org

Address 301 Deauville St, Las Vegas, NV 89106-3912

3/8/2018
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Exhibit 3

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

STATION GVR ACQUISITION, LLC D/B/A GREEN VALLEY RANCH RESORTS SPA CASINO Charged Party and **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO** Charging Party	**Case 28-CA-216411**

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on March 13, 2018, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Harriet Lipkin, Attorney at Law
DLA Piper LLP (US)
500 8th Street NW
Washington, DC 20004-2131

Station GVR Acquisition, LLC d/b/a Green
Valley Ranch Resort Spa Casino
2300 Paseo Verde Parkway
Henderson, NV 89052-2672

March 13, 2018

	Timothy M. Russell, Designated Agent of NLRB
Date	Name
	<u>/s/ Timothy M. Russell</u>
	Signature

Exhibit 4

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

FIRST AMENDED CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
28-CA-216411	March 22, 2018

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino		b. Tel. No. (702)495-3000 c. Cell No.
d. Address (street, city, state ZIP code) 2300 Paseo Verde Parkway Henderson, NV 89052-2672	e. Employer Representative Valerie Murzl, Senior Vice President of Human Resources	f. Fax No. g. e-Mail Valerie.murzl@stationcasinos.com h. Dispute Location (City and State) Henderson, NV
i. Type of Establishment (factory, nursing home, hotel) Hotel and Casino	j. Principal Product or Service Hospitality and gaming	k. Number of workers at dispute location 1000

l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (*set forth a clear and concise statement of the facts constituting the alleged unfair labor practices*)

Within the past six months, the above-named Employer, through its officers, agents and representatives, has failed to bargain collectively and in good faith with International Union of Operating Engineers Local 501, AFL-CIO as the certified exclusive bargaining representative of all full-time and regular part-time slot technicians and utility technicians employed by the Employer at it's Henderson, Nevada facility, by dealing directly with employees and failing to produce information as requested by the Union.

By these and other acts, the above-named Employer has restrained and coerced employees in the exercise of their Section 7 rights guaranteed under the National Labor Relations Act.

3. Full name of party filing charge (*if labor organization, give full name, including local name and number*)
International Union of Operating Engineers Local 501, AFL-CIO

4a. Address (street and number, city, state, and ZIP code) 301 Deauville Street, Las Vegas, NV 89106	4b. Tel. No. (702)382-8454 4c. Cell No. (702)622-0846 4d. Fax No. (702)386-5813 4e. e-Mail jsoto@local501.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (*to be filled in when charge is filed by a labor organization*)
International Union of Operating Engineers, AFL-CIO

6. DECLARATION **I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.**		Tel. No. (702)382-8454
By: (signature of representative or person making charge)	Jose Soto, Director of Organizing Print Name and Title	Office, if any, Cell No. (702)622-0846 Fax No. (702)386-5813
Address: 301 Deauville Street Las Vegas, NV 89106	Date: 3/22/18	e-Mail jsoto@local501.org

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Exhibit 5

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

STATION GVR ACQUISITION, LLC D/B/A GREEN VALLEY RANCH RESORT SPA CASINO Charged Party and **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO** Charging Party	**Case 28-CA-216411**

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **March 23, 2018,** I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Harriet Lipkin, Attorney at Law
DLA Piper LLP (US)
500 8th Street NW
Washington, DC 20004-2131

Station GVR Acquisition, LLC d/b/a Green
Valley Ranch Resort Spa Casino
2300 Paseo Verde Parkway
Henderson, NV 89052-2672

March 23, 2018	Dawn M. Moore, Designated Agent of NLRB
Date	Name

/s/ Dawn M. Moore
Signature

Exhibit 6

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

STATION GVR ACQUISITION, LLC D/B/A GREEN VALLEY RANCH RESORTS SPA CASINO

and

Cases 28-CA-211043
28-CA-216411

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO

ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT AND NOTICE OF HEARING

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, **IT IS ORDERED THAT** Case 28-CA-211043 and Case 28-CA-216411, which are based on charges filed by International Union of Operating Engineers Local 501, AFL-CIO (the Union) against Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resorts Spa Casino (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq. and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1. (a) The charge in Case 28-CA-211043 was filed by the Union on December 5, 2017, and a copy was served on Respondent by U.S. mail on the same date.

(b) The charge in Case 28-CA-216411 was filed by the Union on March 8, 2018, and a copy was served on Respondent by U.S. mail on March 13, 2018.

Exhibit 7

(c) The first amended charge in Case 28-CA-216411 was filed by the Union on March 22, 2018, and a copy was served on Respondent by U.S. mail on March 23, 2018.

2. (a) At all material times, Respondent has been a limited-liability company with an office and place of business in Henderson, Nevada (Respondent's facility), and has been engaged in operating a hotel and casino.

(b) In conducting its operations during the 12-month period ending December 5, 2017, Respondent in conducting its operations described above in paragraph 2(a), purchased and received at Respondent's facility goods valued in excess of $50,000 directly from points outside the State of Nevada.

(c) In conducting its operations during the 12-month period ending December 5, 2017, Respondent derived gross revenues in excess of $500,000.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act):

Sheila Lee	-	Director of Human Resources
Valerie Mural	-	Senior Vice President of Human Resources

5. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time, regular part-time, and extra board slot technicians and utility technicians employed by the Employer at its Henderson, Nevada facility, excluding all other employees, office clerical employees, guards, and supervisors as defined in the Act.

(b) On or about October 16, 2017, the Regional Director issued a Decision and Certification of Representative, certifying the Union as the exclusive collective-bargaining representative of the Unit.

(c) At all times since October 16, 2017, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

6. (a) About November 6, 2017, the Union has requested, in writing, that Respondent furnish the Union with the following information:

(1) A list of current employees including their names, dates of hire, rates of pay, job classification, last known address, phone number, date of completion of any probationary period, and social security number;

(2) Copies of all current job descriptions;

(3) Copies of all disciplinary notices, warnings or records of disciplinary personnel actions for the last 24 months;

(4) A copy of all company fringe benefit plans including retirement, sick time, profit sharing, severance, stock incentive, vacation, health and welfare, apprenticeship, training, education, legal services, child care or any plans which relate to the employees;

(5) Copies of any company wage or salary plans;

(6) A copy of all current company personnel policies, practices and procedures;

(7) Copies of all contract agreements related with Property Management and/or owner(s);

(8) Copies of all Covenants, Conditions and Restrictions (CCM and/or any additional information related to said agreements in the above; and

(9) Complete Enclosed Employer Contact Information Request Form (E411)

(b) Since about March 8, 2018, the Union has requested in writing that Respondent furnish the Union with the following information:

(1) Please provide your policy and procedures in regards to slot tournaments;

(2) How often are slot tournaments held at Green Valley Ranch Hotel and Casino;

(3) What type of notice is provided for special projects, like slot tournaments; and

(4) What are the safety policies in regards to installs, conversions and preventative maintenance to slot machines when tournaments take place.

(c) The information requested by the Union, as described above in paragraphs 6(a) and 6(b) is necessary for, and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(d) Since about November 6, 2017, Respondent has failed and refused to furnish the Union with the information requested by it as described above in paragraph 6(a).

(e) Since about March 8, 2018, Respondent has failed and refused to provide the Union with the information as described above in paragraph 6(b).

(f) Since about March 8, 2018, Respondent has changed the amount of notice given to bargaining unit employees when their work schedules are changed.

(g) The subject set forth above in paragraph 6(f), relate to wages, hours, and other terms and conditions of employment of the Unit and is a are mandatory subject for the purposes of collective bargaining.

(h) Respondent engaged in the conduct described above in paragraph 6(f) without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to the conduct and effects of the conduct described above in paragraph 6(f).

(i) About March 8, 2018, the Union requested Respondent bargain collectively about the conduct and the effects of the conduct described above in paragraph 6(f).

(j) Since about March 8, 2018, Respondent has failed and refused to bargain collectively about the subjects set forth above in paragraph 6(f).

7. By the conduct described above in paragraph 6 Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

8. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. The

answer must be **received by this office on or before May 11, 2018, or postmarked on or before May 10, 2018.** Respondent should file an original copy of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **E-File Documents,** enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find,

pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE that on a date and at a time to be determined, at the Hearing Room, National Labor Relations Board, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, Nevada, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Phoenix, Arizona, this 27th day of April 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

Attachments

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Cases 28-CA-211043 and 28-CA-216411

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

(1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).

(2) Grounds must be set forth in ***detail***;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and

(5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Station GVR Acquisition, LLC d/b/a
Green Valley Ranch Resorts Spa Casino
2300 Paseo Verde Parkway
Henderson, NV 89052

Harriet Lipkin, Attorney at Law
DLA Piper LLP (US)
500 8th Street NW
Washington, DC 20004-2131

Jose Soto, Director of Organizing
International Union of Operating Engineers
Local 501, AFL-CIO
301 Deauville Street
Las Vegas, NV 89106

Form NLRB-4668
(6-2014)

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlrb.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlrb.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.

- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits: Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing.

(OVER)

If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts**: An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.

- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

- **Date for Filing Post-Hearing Brief**: Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.

- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.

- **Exceptions to the ALJ's Decision**: The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

STATION GVR ACQUISITION, LLC D/B/A GREEN VALLEY RANCH RESORTS SPA CASINO

and

Cases 28-CA-211043
28-CA-216411

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO

AFFIDAVIT OF SERVICE OF: ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT AND NOTICE OF HEARING (with Forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **April 27, 2018**, I served the above-entitled document(s) by **certified mail or Email,** as noted below, upon the following persons, addressed to them at the following addresses:

Station GVR Acquisition, LLC d/b/a
Green Valley Ranch Resorts Spa Casino
2300 Paseo Verde Parkway
Henderson, NV 89052
Certified – 7017 3040 0000 4205 6155

Harriet Lipkin, Attorney at Law
DLA Piper LLP (US)
500 8th Street NW
Washington, DC 20004-2131
E-Mail: harriet.lipkin@dlapiper.com

Jose Soto, Director of Organizing
International Union of Operating Engineers
Local 501, AFL-CIO
301 Deauville Street
Las Vegas, NV 89106
E-Mail: jsoto@local501.org

April 27, 2018
Date

Dawn M. Moore,
Designated Agent of NLRB
Name

/s/ Dawn M. Moore
Signature

Exhibit 8

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

STATION GVR ACQUISITION, LLC d/b/a
GREEN VALLEY RANCH RESORT SPA CASINO

and **Cases 28-CA-211043**
28-CA-216411

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 501, AFL-CIO

ANSWER TO COMPLAINT AND NOTICE OF HEARING AND AFFIRMATIVE DEFENSES

Comes now Respondent Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino ("GVR" or "Employer"), by and through counsel, and for its Answer to the Order Consolidating Cases, Consolidated Complaint and Notice of Hearing ("Complaint") issued in the above-captioned matter, states as follows:

1. GVR admits the truth of the allegations in paragraph 1 of the Complaint.

2. GVR admits the truth of the allegations in paragraph 2 of the Complaint.

3. GVR admits the truth of the allegation in paragraph 3 of the Complaint, but clarifies that International Union of Operating Engineers Local 501, AFL-CIO ("Union") admits into membership employees other-than guards.

4. GVR denies that Sheila Lee is its Director of Human Resources. GVR admits the truth of the remaining allegations in paragraph 4 of the Complaint.

5. GVR denies the truth of the allegation in paragraph 5(a) of the Complaint, because "All full-time . . . slot technicians and utility technicians employed by [GVR] . . ." are "guards" as defined by the Act. GVR denies that it employs regular part-time and/or "extra board" slot technicians and utility technicians.

Exhibit 9

GVR admits that on or about October 16, 2017, the Regional Director issued a Decision and Certification of Representative.

GVR denies the truth of the allegations in paragraph 5(c) of the Complaint.

6. GVR admits the truth of the allegations in paragraphs 6(a), (b), (d), (e) of the Complaint. GVR denies the truth of the allegations in paragraphs 6(c), (f), (g), (h), (i), (j) of the Complaint.

7. GVR denies the truth of the allegations in paragraph 7 of the Complaint.

8. GVR denies the truth of the allegations in paragraph 8 of the Complaint.

GVR denies any and all allegations in the Complaint absent a specific admission.

AFFIRMATIVE DEFENSES

Comes now GVR, and for its affirmative defenses, states as follows:

1. The Complaint must be dismissed because it fails to state a claim upon which relief may be granted.

2. The Regional Director's Decision and Certification of Representative was issued without basis, is inconsistent with the law, and is not valid and enforceable, because the Union admits into membership employees other than guards, and the bargaining unit is composed of "guards" as defined by the Act.

Date: May 3, 2018

Respectfully Submitted,

/s/ Harriet Lipkin

Harriet Lipkin
DLA Piper LLP (US)
500 Eighth Street NW
Washington, D.C. 20004
202.799.4250
harriet.lipkin@dlapiper.com

Kevin Harlow
DLA Piper LLP (US)
401 B Street, Suite 1700
San Diego, CA 92101
619.699.3402
kevin.harlow@dlapiper.com

Attorneys for Employer,
STATION GVR ACQUISITION d/b/a
GREEN VALLEY RANCH RESORT SPA CASINO

CERTIFICATE OF SERVICE

I hereby certify this 3rd day of May, 2018, that a copy of the Answer to Complaint and Notice of Hearing and Affirmative Defenses was served via email and first class mail to:

Cornele A. Overstreet
National Labor Relations Board
2600 North Central Avenue – Suite 1400
Phoenix, AZ 85004
cornele.overstreet@nlrb.gov

Elise Oviedo
National Labor Relations Board
Las Vegas Resident Office
Foley Federal Building
300 S. Las Vegas Blvd. Ste. 2-901
Las Vegas, NV 89101
elise.oviedo@nlrb.gov

Adam Stern
The Myers Law Group
9327 Fairway View Place
Suite 100
Rancho Cucamonga, CA 91730
laboradam@aol.com

Jose Soto, Director of Organizing
International Union of Operating Engineers,
Local 501
301 Deauville Street
Las Vegas, NV 89106-3912
jsoto@local501.org

/s/ Christine Yang
An Employee of DLA Piper LLP (US)

From: (b) (6), (b) (7)(C)
To: Overstreet, Cornele; Oviedo, Elise F.; Harriet.Lipkin@dlapiper.com; Kevin.Harlow@dlapiper.com; Christine.Yang@dlapiper.com
Cc: Eric Myers
Subject: FP Holdings, L.P., d/b/a Palms Casino Resort / Case 28-RC-217964
Date: Wednesday, May 9, 2018 3:28:06 PM
Attachments: Motion to reopen record - Case No. 28-RC-217964.pdf

---

Dear All,
Please see attached for Petitioner's motion to reopen record efiled today on with the NLRB.
Regards,

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) *Eric B. Myers and John J. Davis, Jr.*
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
Phone: (415) 597-7200 (b) (6), (b) (7)(C)
Fax: (415) 597-7201
Email: (b) (6), (b) (7)(C) @msh.law

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT **Case No. 28-RC-217964**

Employer,

and

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS, A/W UNITE HERE INTERNATIONAL UNION,

Petitioner.

PETITIONER LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS' MOTION TO REOPEN THE RECORD

Pursuant to § 102.67(e)(1) of the Rules and Regulations of the National Labor Relations Board, Petitioner Local Joint Executive Board of Las Vegas petitions the Regional Director to reopen the evidentiary record underlying the Decision and Direction of Election ("DDE"). It does so for the limited purpose of receiving evidence that was not available on the date of the hearing regarding the number of employees that the Employer projected it would hire who would be deprived of the opportunity to vote if the petition were not dismissed as premature. At the hearing held on April 16, 2018[1], the Employer presented evidence that it projected to hire a total of 273 additional employees as a result of expansion and remodeling by the end of 2019. But events subsequent to the close of hearing rendered approximately 70 of these 273 employees

[1] All dates are 2018 except where otherwise indicated.

who were hired during the week of April 16 to be eligible to vote. Accordingly, the findings set out in the DDE are no longer accurate because they overstate the number of projected future hires. In the event that the Employer seeks Board review of the DDE, it is necessary that the record be reopened to clarify how many additional hires are really at issue.

In support of this motion, Petitioner states the following. The Director issued the DDE on April 23 following an evidentiary hearing before a hearing officer conducted on April 16. In the DDE, the Regional Director found that the Employer projected as of that date of the hearing that it would hire 273 employees by the end of the third quarter of 2019, and that 100 of these would be hired by the end of the third quarter of 2018. DDE, 2-3. In fact, as of April 16, the Employer had already hired approximately 30 of these employees, who were among a total of 71 employees that the Employer projected it would hire to staff a new steakhouse. *See* DDE, p. 3.

In the DDE, the Regional Director identified the eligibility cutoff date as April 8, which would have meant that the employees on the payroll as of April 16 were not eligible to vote. However, by email dated April 24 counsel for the Employer drew attention to the fact that the eligibility cutoff date should be April 22 because that was the end of the last payroll period prior to the issuance of the DDE. Counsel stated that if the cutoff date were not corrected "[a]pproximately 70 Team Members would be disenfranchised if denied the opportunity to vote." *See* Exhibit A, attached. The parties stipulated to correct the eligibility cutoff date. Accordingly, this group of approximately 70 employees were eligible to vote.

Petitioner is informed that these 70 employees were among the new hires that the Employer projected it would as a result of the expansion. That is, they comprise the 30 employees who had been hired as of April 16 plus an additional number of employees apparently hired around the same time. If this is the case, then 70 of the 100 employees that the Employer

projected to hire in the third quarter of 2018 had already been hired prior to the eligibility cut-off date and in fact had the opportunity to vote. Accordingly, the total number of projected future hires should be reduced by approximately 70, to around 200. Because the accuracy of these numbers is a matter of relevance to the Employer's expanded unit theory under the relevant caselaw, it is appropriate to reopen the record for the limited purpose of receiving evidence as to these matters.

"A party to a proceeding may, because of extraordinary circumstances, move . . . after the decision or report . . . to reopen the record." § 102.65(e)(1). Here, it is appropriate for the Regional Director to reopen the record to determine how many of the 273 employees projected to be hired as a result of the expansion had already been hired before the eligibility cut-off date. Doing so will allow the Board to evaluate the Employer's arguments based upon an accurate factual record. This evidence was not available at the time of the hearing for two reasons: first, Petitioner was unable to know at the close of hearing on April 16 how many employees the employer would hire during that week, and second, it was unable to know that the Regional Director would not issue the DD&E until April 23, rendering those employees eligible to vote in light of the April 22 eligibility cut-off.

It is currently unknown whether the Employer will seek review of the DDE. Obviously, if it does not, then the matters raised herein are moot. But if it proceeds to do so, then it is necessary that the Board be afforded the opportunity to decide the matter based upon an accurate factual record. The parties may be able to enter stipulations regarding these matters to forego the need for a hearing. Otherwise, Petitioners asks that a hearing date be set.[2]

---

[2] Petitioner notes that he will be unavailable to attend a hearing for May 15-May 22 because he is attending his (b) (6), (b) (7)(C) [redacted] in Philadelphia. He respectfully requests that any hearing be set on or after May 24.

Dated: May 9, 2018

Respectfully submitted,

/s/Eric B. Myers

Eric B. Myers
McCracken, Stemerman & Holsberry, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
Phone: (415) 597-7200
Fax: (415) 597-720
Email: ebm@msh.law

EXHIBIT A

From: Lipkin, Harriet [mailto:Harriet.Lipkin@dlapiper.com]
Sent: Tuesday, April 24, 2018 8:43 AM
To: cornele.overstreet@nlrb.gov; steve.wamser@nlrb.gov; barbara.baynes@nlrb.gov; elise.oviedo@nlrb.gov; christopher.giardina@nlrb.gov; Eric Myers <ebm@msh.law>
Cc: Lipkin, Harriet <Harriet.Lipkin@dlapiper.com>; Harlow, Kevin <Kevin.Harlow@dlapiper.com>; Yang, Christine <Christine.Yang@dlapiper.com>
Subject: YOUR IMMEDIATE ATTENTION PLEASE / EXIGENT CIRCUMSTANCE FP Holdings, L.P., d/b/a Palms Casino Resort / Case 28-RC-217964
Importance: High

Dear All,
Please pardon our use of email, but we are unaware of another proper method to communicate an exigent concern regarding the accuracy of the attached.

The attached D&DE is dated and was issued yesterday, 4/23/18. It establishes the eligibility cut-off date as 4/8/18. However, the payroll period immediately preceding issuance of the D&DE was SUNDAY 4/22/18. Therefore, pursuant to Casehandling Manual 23-110, the eligibility cut-off date should have been 4/22/18.

Approximately 70 Team Members would be disenfranchised if denied the opportunity to vote.

We anticipate that this was an unintentional clerical error, perhaps associated with preparation of the D&DE on Friday, but issuance on Monday, which affects calculation of the eligibility cut-off date.

We respectfully request that you review the attached and consider our concern, and if you agree, immediately address and correct the eligibility cut-off date.

Thanks – Harriet Lipkin

Harriet Lipkin
Partner

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E harriet.lipkin@dlapiper.com

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Washington, DC 20004
United States
www.dlapiper.com

From: Zayas, Christian D. [mailto:Christian.Zayas@nlrb.gov]
Sent: Monday, April 23, 2018 5:49 PM

To: Lipkin, Harriet; ebm@msh.law
Subject: FP Holdings, L.P., d/b/a Palms Casino Resort / Case 28-RC-217964

Please see the attached documents.

V/R

Christian D. Zayas
NATIONAL LABOR RELATIONS BOARD
Secretary to the Assistant Regional Director
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004-3099
(602)416-4772

The information contained in this email may be confidential and/or legally privileged. It has been sent for the sole use of the intended recipient(s). If the reader of this message is not an intended recipient, you are hereby notified that any unauthorized review, use, disclosure, dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please reply to the sender and destroy all copies of the message. To contact us directly, send to postmaster@dlapiper.com. Thank you.

PROOF OF SERVICE
STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO

I am employed in the city and country of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 595 Market Street, Suite 800, San Francisco, CA 94105.

I hereby certify that a true and correct copy of the foregoing document entitled **PETITIONER LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS' MOTION TO REOPEN THE RECORD** was filed using the National Labor Relations Board on-line E-filing system on the Agency's website and copies of the aforementioned were therefore served upon the following parties via electronic mail on this 9th day of May, 2018 as follows:

Cornele Overstreet, Regional Director — *Cornele.Overstreet@nlrb.gov*
National Labor Relations Board, Region 28
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101

Elise Oviedo, Esq. — *Elise.Oviedo@nlrb.gov*
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300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101

Harriet Lipkin — *Harriet.Lipkin@dlapiper.com*
Kevin Harlow — *Kevin.Harlow@dlapiper.com*
Christine Yang — *Christine.Yang@dlapiper.com*
DLA Piper LLP
500 Eighth Street, NW
Washington, DC 20004

Attorneys for Employer

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 9, 2018 at San Francisco, California.

/s/Yien San Juan
Yien San Juan

From: Moore, Dawn M.
To: Lipkin, Harriet; Harlow, Kevin; jsoto@local501.org
Subject: NP Palace LLC d/b/a Palace Station Hotel & Casino - Case 28-CA-218622
Date: Wednesday, May 9, 2018 5:51:43 PM
Attachments: image001.png
MSJ.28-CA-218622.Motions to Transfer and for Summary Judgment 5-9-18.pdf

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Please see the attached MOTIONS TO TRANSFER AND CONTINUE MATTER BEFORE THE BOARD AND FOR SUMMARY JUDGMENT.

Dawn M. Moore

Administrative Assistant
Region 28 – Las Vegas Resident Office
National Labor Relations Board
Foley Federal Building
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101-5833
Tel: (702) 820-7466
Fax: (702) 388-6248

NATIONAL LABOR RELATIONS BOARD

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NP PALACE LLC d/b/a PALACE
STATION HOTEL & CASINO

and **Case 28-CA-218622**

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 501, AFL-CIO

MOTIONS TO TRANSFER AND CONTINUE MATTER BEFORE THE BOARD AND FOR SUMMARY JUDGMENT

The General Counsel, by the undersigned Counsel for the General Counsel, hereby files with the National Labor Relations Board (the Board) pursuant to Sections 102.24 and 102.50 of the Board's Rules and Regulations, Series 8, as amended (the Board's Rules), these motions to transfer and continue matter before the Board and for summary judgment with respect to the test of certification and the information requests made by International Union of Operating Engineers Local 501, AFL-CIO (the Union) to NP Palace LLC d/b/a Palace Station Hotel & Casino (Respondent) and, in support of said motions, alleges as follows:

1. On December 15, 2017, the Union filed a Petition in Case 28-RC-211644, seeking certification as the representative of certain employees of Respondent. A copy of the Petition and the Certificate of Service are attached as Exhibit 1 and Exhibit 2, respectively.

2. On December 27, 2017, a pre-election hearing was conducted by a Hearing Officer of the Board wherein Respondent contended that the Petition should be dismissed as the petitioned-for employees were guards within the meaning of the Act. A copy of Respondent's December 22, 2017, Statement of Position and supporting brief filed in response to the Petition are attached as Exhibit 3 and Exhibit 4, respectively.

3. On January 3, 2018, the Regional Director for Region 28 of the Board (the Regional Director) issued a Decision and Direction of Election, directing that an election be held on Tuesday, January 9, 2018, from 11:30 a.m. to 1:30 p.m. and 2:30 p.m. to 4:30 p.m. at Salon G at the Respondent's facility, located at 2411 West Sahara Avenue, Las Vegas, Nevada. A copy of the Decision and Direction of Election is attached as Exhibit 5.

4. On January 9, 2018, a secret ballot election was conducted among Respondent's employees in the unit described in the Decision and Direction of Election. On January 9, 2018, at the conclusion of the election, the parties were furnished with a Tally of Ballots. The Tally of Ballots shows that of approximately 11 eligible voters, 11 cast valid ballots for the Union, zero (0) cast valid ballots against the Union, and there were zero (0) challenged ballots and zero (0) void ballots. A copy of the Tally of Ballots is attached as Exhibit 6. No post-election objections were filed.

5. On January 18, 2018, the Regional Director issued a Certification of Representative, certifying the Union as the exclusive representative of all the employees in the following bargaining unit (the Unit):

> All full-time and regular part-time slot technicians and utility technicians employed by [Respondent] at its Las Vegas, Nevada facility; excluding, all other employees, office clerical employees, professional employees, guards, and supervisors as defined in the Act.

A copy of the Certification of Representative is attached as Exhibit 7.

6. On January 29, 2018, Respondent filed with the Board its Request for Review of the Regional Director's Decision and Direction of Election and Certification of Representative. A copy of the Request for Review is attached as Exhibit 8. Attachment A to Exhibit 8 is identical to Exhibit 5 and is omitted. Attachment B to Exhibit 8 is identical to

Exhibit 6 and is omitted. Attachment C to Exhibit 8 is attached as Exhibit 9. Attachment D to Exhibit 8 is attached as Exhibit 10.

7. On January 31, 2018, the Union filed its Opposition to Respondent's Request for Review. A copy of the Opposition is attached as Exhibit 11. The attachment to Exhibit 11 is identical to Exhibit 8 and is omitted.

8. On April 12, 2018, the Board issued its unpublished Order, denying Respondent's Request for Review. A copy of this Order is attached as Exhibit 12.

9. On April 18, 2018, the Union filed the charge in Case 28-CA-218622, alleging violations of Section 8(a)(1) and (5) in that Respondent refused to recognize and bargain with the Union as the certified representative of the Unit and refused to provide relevant and necessary information requested by the Union for purposes of collective-bargaining. Copies of the charge and the affidavit of service are attached as Exhibits 13 and 14, respectively.

10. On May 2, 2018, the Regional Director issued a Complaint and Notice of Hearing (the Complaint), alleging, in pertinent part, that since about January 22, 2018, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit and has failed and refused to provide the Union with necessary and relevant information it requested on January 22 and 31, 2018. Copies of the Complaint and the affidavit of service are attached as Exhibits 15 and 16, respectively.

11. On May 7, 2018, Respondent filed an Answer to the Complaint. A copy of Respondent's Answer is attached as Exhibit 17.

In its Answer, Respondent <u>admits</u>:

(a) Complaint paragraph 1 establishing the filing and service of the charge;

(b) Complaint paragraph 2 establishing commerce and jurisdiction;

(c) Complaint paragraph 3 establishing the labor organization status of the Union, while asserting that the Union admits into membership employees other than guards;

(d) Complaint paragraph 4 establishing the supervisor and agency status of its Vice President of Human Resources and the agency status of its counsel;

(e) Complaint paragraph 5(b) establishing that the Regional Director issued the Certification of Representative on January 18, 2018 (Exhibit 6);

(f) Complaint paragraph 5(e) establishing that since about January 22, 2018, the Union requested that Respondent recognize and bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit;

(g) Complaint paragraph 5(f) establishing that since about January 22, 2018, Respondent has failed and refused to recognize and bargain with the Union;

(h) Complaint paragraph 5(g) establishing that since about January 22, 2018, the Union requested the following information:

(1) A list of current bargaining unit employees including their names, dates of hire, rates of pay, job classification, last known address, phone number, and date of completion of any probationary period.

(2) Copies of all manuals, training materials, documentation, memoranda, communications and policies related to the operation of any work distribution system currently in use.

(3) A copy of all current company policies, practices and/or procedures bargaining unit members are expected to follow.

(4) A copy of all departmental policies, practices and/or procedures that bargaining unit members are expected to follow.

(5) Copies of all current job descriptions for all bargaining unit members, including but not limited to information regarding required professional and/or technical licenses.

(6) Copies of all job descriptions for non-bargaining unit personnel assigned to supervise bargaining unit members, including but not limited to information regarding required professional and/or technical licenses.

(7) Copies of all disciplinary notices, warnings or records of disciplinary actions involving bargaining unit members occurring July 1, 2012 or later.

(8) Copies of all job bids posted July 1, 2012 or later involving bargaining unit members, and the results of those bids.

(9) Copies of all shift schedules for bargaining unit members effective January 1, 2015 or later.

(10) Copies of all written customer complaints involving bargaining unit members. Please also provide copies of all internal memorandums concerning oral customer complaints. If the complaints were oral and there is no written record, please provide a description of each such complaint including the customer's name, nature of complaint, employee involved and disposition both with respect to the complaint as well as any discipline which might have been imposed.

(11) Copies of all OSHA 300 Logs from July 1, 2012 through now.

(12) Copies of all OSHA Forms 301 from July 1, 2012 through now.

(13) Copies of all safety committee minutes from July 1, 2012 through now.

(i) Complaint paragraph 5(h) establishing that since about January 31, 2018, the Union requested the following information:

(1) A list of current employees including their names, dates of hire, rates of pay, job classification, last known address, phone number, date of completion of any probationary period, and social security number.

(2) Copies of all current job descriptions.

(3) A copy of all company fringe benefit plans including retirement, sick time, profit sharing, severance, stock incentive, vacation, health and welfare, apprenticeship, training, education, legal services, child care or any plans which relate to the employees.

(4) Copies of any company wage or salary plans.

(5) A copy of all current company personnel policies, practices and procedures.

(j) Complaint paragraph 5(k) establishing that since about January 22, 2018, Respondent has failed and refused to provide the Union with the information requested on that date; and

(k) Complaint paragraph 5(l) establishing that since about January 31, 2018, Respondent has failed and refused to provide the Union with the information requested on that date.

In its Answer, Respondent denies:

(l) Complaint paragraph 5(a) alleging the appropriateness of the Unit because Respondent believes slot technicians and utility technicians employed by Respondent are guards as defined by the Act;

(m) Complaint paragraph 5(c)[1] alleging the Union's status as the exclusive collective-bargaining representative of the Unit based on Section 9(a) of the Act;

(n) Complaint paragraph 5(j) alleging that the information requested by the Union on January 22 and 31, 2018, is necessary for and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(o) Complaint paragraph 6 alleging that Respondent's conduct violates Section 8(a)(1) and (5) of the Act; and

[1] There is no Complaint paragraph 5(d).

(p) Complaint paragraph 7 alleging that Respondent's conduct affects commerce within the meaning of Sections 2(6) and (7) of the Act.

12. Respondent's denials that the Union was properly certified as the exclusive bargaining representative under Section 9(a) of the Act are predicated on Respondent's raised and rejected arguments in Case 28-RC-211644.

13. Further, Respondent does not assert that newly discovered or previously unavailable evidence has come to light since the litigation and disposition of Case 28-RC-211644. Nor does Respondent allege any special circumstances that would require the Board to reexamine its Order Denying Respondent's Request for Review of the Regional Director's Decision and Direction of Election, and Certification of Representative in Case 28-RC-211644.

14. At all material times, the Board's Rules and Regulations have held:

> *Finality; waiver; denial of request*. The Regional Director's actions are final unless a request for review is granted. The parties may, at any time, waive their right to request review. Failure to request review shall preclude such parties from relitigating, in any related subsequent unfair labor practice proceeding, any issue which was, or could have been, raised in the representation proceeding. **Denial of a request for review shall constitute an affirmance of the Regional Director's action which shall also preclude relitigating any such issues in any related subsequent unfair labor practice proceeding.** (Emphasis added.)

(Prior to April 14, 2015, this rule appeared in Section 102.67(f) of the Board's Rules and Regulations. It now appears in Section 102.67(g) of the Board's Rules and Regulations.)

15. Well-established Board and Court case authority holds that a party may not relitigate, in an unfair labor practice proceeding, representation issues that were, or could have been, litigated in a prior representation proceeding. *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 159-163 (1941); *Delek Refining, Ltd.*, 363 NLRB No. 41 (Nov. 13, 2015); *Fedex*

Freight, Inc., 362 NLRB No. 140 (June 30, 2015); *The George Washington University*, 346 NLRB 155 (2005), enfd. per curiam 2006 WL 4539237 (D.C. Cir. 2006); *Ovid Convalescent Manor, Inc.*, 264 NLRB 774, 775 (1982), enfd. mem. 732 F.2d 155 (6th Cir. 1984); *Lighthouse for the Blind of Houston*, 248 NLRB 1366, 1367 (1980), enfd. 696 F.2d 399 (5th Cir. 1983); *Boatel, Inc.*, 204 NLRB 896, 897 (1973), enfd. mem. 490 F.2d 990 (5th Cir. 1974); *Keco Industries, Inc.*, 191 NLRB 257, 258 (1971), enfd. 458 F.2d 1356 (6th Cir. 1972); *General Dynamics Corp.*, 187 NLRB 679, 680 (1971), enfd. per curiam 447 F.2d 1370 (5th Cir. 1971); *Westinghouse Broadcasting Company, Inc.*, 218 NLRB 693 (1975).

16. Since Respondent has refused to recognize and bargain with the Union following the Union's request on January 22, 2018, the charge in Case 28-CA-218622 filed by the Union on April 18, 2018, is not outside the Section 10(b) six-month statute of limitations.

17. With respect to the Union's requests for information described above in paragraphs 11(h) and 11(i), Respondent admits that the Union requested the information and that it failed and refused to provide it to the Union. Respondent denies that that the information requested is necessary for and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the employees in the Unit. The information requested goes to the terms and conditions of the employees in the Unit and is presumptively relevant. See, e.g., *Maple View Manor*, 320 NLRB 1149 (1996).

18. The foregoing averments and legal authority show that Respondent's Answer has not raised any genuine or litigable dispute as to a relevant or material issue of fact. Accordingly, this matter is ripe for summary judgment on the pleadings.

WHEREFORE, Counsel for the General Counsel respectfully moves:

A. That in order to expedite judgment in this unfair labor practice case, it be transferred to and continued before the Board for decision. Precedent for summarily adjudicating refusals to bargain in test-of-certification situations is well grounded, and routinely survives due process challenges. See, e.g., *NLRB v. Tallahassee Coca-Cola Bottling Co., Inc.*, 409 F.2d 201, 203 (5th Cir. 1969); *NLRB v. Union Brothers, Inc.*, 403 F.2d 883, 886-888 (4th Cir. 1968); cf. *NLRB v. Tennessee Packers, Inc.*, 379 F.2d 172, 177-178 (6th Cir. 1967), cert. denied 389 U.S. 958 (1967) (consent election).

B. That the Board take official notice of the record in Case 28-CA-211644 as defined in Section 102.68 of the Board's Rules and Regulations. See, e.g., *Delek Refining, Ltd.*, supra.

C. That the Board find the pleadings to reveal no controversy as to any relevant or material fact that would necessitate a hearing or an administrative law judge's decision; and that the Board find the pleadings with respect to the requests for information (paragraphs 5(f) through 5(l) of the Complaint) to reveal no controversy as to any relevant or material fact that would necessitate a hearing or an administrative law judge's decision.

D. That these Motions be ruled upon as soon as possible, so that, if it is granted, a hearing will be obviated.

E. That the Board find that the pleadings establish Respondent has violated Section 8(a)(1) and (5) of the Act, as alleged in paragraphs 6(e) through 6(l) of the Complaint.

F. That the Board issue a Decision and Order containing findings of fact, conclusions of law, and a remedial order consistent with the conclusion that Section 8(a)(1) and

(5) of the Act have been, and are being violated, including an order that the initial certification year shall be deemed to begin on the date Respondent commences to bargain in good faith with the Union as the certified bargaining representative of the employees in the appropriate Unit. *Campbell Soup Company*, 224 NLRB 13 (1976), enfd. 553 F.2d 96 (4th Cir 1977).

Dated at Las Vegas, Nevada, this 9th day of May 2018.

Respectfully submitted,

/s/ *Elise F. Oviedo*

Elise F. Oviedo, Attorney
Counsel for the General Counsel
National Labor Relations Board
Region 28 - Las Vegas Resident Office
300 Las Vegas Blvd. South, Ste. 2-901
Las Vegas, NV 89101-5833
Telephone: (702) 820-7470
Facsimile: (702) 388-6248
Email: Elise.Oviedo@nlrb.gov

CERTIFICATE OF SERVICE

I hereby certify that the **MOTIONS TO TRANSFER AND CONTINUE MATTER BEFORE THE BOARD AND FOR PARTIAL SUMMARY JUDGMENT** in NP PALACE LLC d/b/a PALACE HOTEL & CASINO, Case 28-CA-218622, was served via E-Gov, E-Filing; E-Mail on this 9th day of May 2018, on the following:

Via E-Gov, E-Filing:

Gary W. Shinners, Executive Secretary
National Labor Relations Board
Office of the Executive Secretary
1015 Half Street SE – Room 5011
Washington, DC 20570

Via E-Mail:

Harriet Lipkin, Attorney at Law
DLA Piper LLP (US)
500 Eighth Street NW
Washington, D.C. 20004
Email: Harriet.Lipkin@dlapiper.com

Kevin Harlow, Attorney at Law
DLA Piper LLP (US)
401 B Street, Suite 1700
San Diego, CA 92101
Email: Kevin.Harlow@dlapiper.com

Jose Soto, Director of Organizing
International Union of Operating Engineers
Local 501, AFL-CIO
301 Deauville Street
Las Vegas, NV 89106
E-Mail: jsoto@local501.org

/s/ Dawn M. Moore

Dawn M. Moore
Administrative Assistant
National Labor Relations Board
Region 28 - Las Vegas Resident Office
Foley Federal Building
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, Nevada 89101
Telephone: (702) 820-7466
Facsimile: (702) 388-6248
E-Mail: Dawn.Moore@nlrb.gov

FORM NLRB-502 (RC)
(4-15)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

RC PETITION

DO NOT WRITE IN THIS SPACE	
Case No. 28-RC-211644	Date Filed December 15, 2017

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlrb.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. **The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.**

2a. Name of Employer	2b. Address(es) of Establishment(s) involved *(Street and number, city, State, ZIP code)*
Palace Station	2411 West Sahara Ave. Las Vegas, NV 89102

3a. Employer Representative – Name and Title	3b. Address (if same as 2b – state same)
Selene Rubio	same

3c. Tel. No.	3d. Cell No.	3e. Fax No.	3f. E-Mail Address
(702) 221-6608		(702) 221-6543	Selene.Rubio@stationcasino.com

4a. Type of Establishment *(Factory, mine, wholesaler, etc.)*	4b. Principal product or service	5a. *City and State where unit is located:*
Hotel and Casino	Gaming and Hospitality	Las Vegas, NV

5b. Description of Unit Involved

Included: All full-time, and regular part time slot technicians and utility technicians employed by the employer at its Las Vegas, Nevada facility.

Excluded: All other employees, office clerical employees guards and supervisors as defined in the Act who were employed by the employer.

6a. No. of Employees in Unit: 10

6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes [✓] No [ ]

Check One: [✓] 7a. Request for recognition as Bargaining Representative was made on (Date) 12/14/17 and Employer declined recognition on or about No Reply (Date) *(If no reply received, so state).*

[ ] 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent *(If none, so state).*	8b. Address
n/a	n/a

8c. Tel No.	8d Cell No.	8e. Fax No.	8f. E-Mail Address
n/a	n/a	n/a	n/a

8g. Affiliation, if any	8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any *(Month, Day, Year)*
n/a	n/a	n/a

9. Is there now a strike or picketing at the Employer's establishment(s) involved? No *If so, approximately how many employees are participating?* _____

(Name of labor organization) _____, has picketed the Employer since *(Month, Day, Year)* _____.

10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. *(If none, so state)*
n/a

10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.
n/a	n/a	n/a	n/a
		10e. Fax No. n/a	10f. E-Mail Address n/a

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.

11a. Election Type: [✓] Manual [ ] Mail [ ] Mixed Manual/Mail

11b. Election Date(s):	11c. Election Time(s):	11d. Election Location(s):
12/28/17	7:00am-8:00am 3:00pm-4:00pm	2411 West Sahara Ave. Las Vegas, NV

12a. Full Name of Petitioner *(Including local name and number)*	12b. Address *(street and number, city, state, and ZIP code)*
International Union of Operating Engineers, Local 501 AFL-CIO	301 Deauvilee St Las Vegas, Nevada 89106

12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent *(If none, so state)*
International Union of Operating Engineers, Local 501 AFL-CIO

12d. Tel No.	12e. Cell No.	12f. Fax No.	12g. E-Mail Address
702-382-8452	702-622-0846	702-386-5813	jsoto@local501.org

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title	13b. Address *(street and number, city, state, and ZIP code)*
Jose Soto Director of Organizing	301 Deauville St Las Vegas, Nevada 89106

13c. Tel No.	13d. Cell No.	13e. Fax No.	13f. E-Mail Address
702-622-0846	702-467-9151	702-386-5813	jsoto@local501.org

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name *(Print)*	Signature	Title	Date
Jose Soto		Director of Organizing	12/14/17

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Exhibit 1

Form NLRB-5544
(5-2015)

CERTIFICATE OF SERVICE

Employer Name: Palace Station

Service on the Employer

I hereby certify that on 12/14/17 (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were served on the Employer by: (check whichever is applicable)

- ☐ e-mail to the email address shown on the petition.
- ☐ facsimile (with the permission of the Employer) to the facsimile number shown on the petition.
- ☐ overnight mail to the mailing address shown on the petition.
- ☒ hand-delivery to Selene Rubio (name of Employer's representative) at the following address: 2411 West sahara Ave. Las Vegas, Nevada.

Service on the Other Party Named in the Petition

I hereby certify that on 12/14/17 (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were also served on Valerie Murzl, Sene Rubio (name of party or parties) by: (check whichever is applicable)

- ☑ email to the email address shown on the petition.
- ☐ facsimile (with the permission of the party) to the facsimile number shown on the petition.
- ☐ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of party's representative) at the following address: _____.

Service on the Other Party Named in the Petition

I hereby certify that on _____ (date), a copy of the petition involving the Employer named above, a Statement of Position (Form NLRB-505), and a Description of Procedures (Form NLRB-4812) were also served on _____ (name of party or parties) by: (check whichever is applicable)

- ☐ email to the email address shown on the petition.
- ☐ facsimile (with the permission of the party) to the facsimile number shown on the petition.
- ☐ overnight mail to the mailing address shown on the petition.
- ☐ hand-delivery to _____ (name of party's representative) at the following address: _____.

Signature

Jose Soto Director of Organizing
Name and Title

12/14/17
Date

Exhibit 2

FORM NLRB-505
(4-15)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE	
Case No. 28-RC-211644	Date Filed 12/15/17

INSTRUCTIONS: *Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.*
Note: *Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.*

1a. Full name of party filing Statement of Position:	1c. Business Phone:	1e. Fax No.:
NP Palace LLC	702-253-2925	702-221-6607
1b. Address *(Street and number, city, state, and ZIP code)*: 2411 W Sahara Avenue, Las Vegas, NV 89102	1d. Cell No.: 702-523-7678	1f. e-Mail Address: regina.rivera@stationcasinos.com

2. Do you agree that the NLRB has jurisdiction over the Employer in this case? [x] Yes [ ] No
(A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

3. Do you agree that the proposed unit is appropriate? [ ] Yes [x] No *(If not, answer 3a and 3b.)*

a. State the basis for your contention that the proposed unit is not appropriate. *(If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)*
The petitioned-for unit is composed of "guards" within the meaning of the Act. The Petitioner cannot be certified as the exclusive bargaining representative of the unit because it admits to membership employees other than guards.

b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.

Added:	Excluded:
N/A	All slot and utility technicians

4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.
N/A

5. Is there a bar to conducting an election in this case? [x] Yes [ ] No *If yes, state the basis for your position.*
The petitioned-for unit is composed of "guards" within the meaning of the Act. The Petitioner cannot be certified as the exclusive bargaining representative of the unit because it admits to membership employees other than guards.

6. Describe all other issues you intend to raise at the pre-election hearing.
Ban on cellphones and other electronic devices in the voting area; date and location of the election.

7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at http://www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015
(a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)
(b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be *added* to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be *excluded* from the proposed unit to make it an appropriate unit. (Attachment D).

8a. State your position with respect to the details of any election that may be conducted in this matter. Type: [x] Manual [ ] Mail [ ] Mixed Manual/Mail

8b. Date(s):	8c. Time(s):	8d. Location(s):
On a Friday	11:30 a.m. - 1:30 p.m.; 2:30-4:30 p.m.	Employer Banquet Room
8e. Eligibility Period (e.g. special eligibility formula): None	8f. Last Payroll Period Ending Date: To be determined	8g. Length of payroll period [ ] Weekly [x] Biweekly [ ] Other *(specify length)*

9. Representative who will accept service of all papers for purposes of the representation proceeding

9a. Full name and title of authorized representative	9b. Signature of authorized representative	9c. Date
Harriet Lipkin	/s/ Harriet Lipkin	12/21/17

9d. Address *(Street and number, city, state, and ZIP code)*	9e. e-Mail Address
500 Eighth Street, NW Washington, D.C. 20004	harriet.lipkin@dlapiper.com

9f. Business Phone No.:	9g. Fax No.:	9h. Cell No.:
207.799.4250	202.799.5250	202.669.0099

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Exhibit 3

PALACE STATION **and** **INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 501, AFL-CIO**	**Case No. 28-RC-211644**

EMPLOYER'S POSITION STATEMENT

I. INTRODUCTION

The International Union of Operating Engineers Local 501, AFL-CIO ("Union") petitioned to represent a unit comprising all slot technicians and utility technicians at the Employer's facility. The Petition must be dismissed because the core duties of the technicians are to "enforce against employees and other persons rules to protect [the] property of the employer," and consequently the technicians are "guards" within the meaning of the Act. *Bellagio, LLC v. NLRB*, No. 16-1191, 2017 WL 3027221 (D.C. Cir. July 18, 2017). As the Union indisputably admits to membership employees other than guards, the Union is ineligible to represent the petitioned-for unit.

The Employer also submits that, in the event the Regional Director directs an election in this matter, cameras, cellphones, and other electronic devices should be banned from the voting area. Banning electronic devices from the voting area would eliminate the potential for team members to be pressured into photographing their ballots to "prove" how they voted. There is no legitimate need for these devices in the voting area. The devices should be temporarily held by the observers and/or Board agent(s), and then returned to the team member after the team member casts his or her ballot.

Exhibit 4

II. THE PETITIONED-FOR UNIT IS COMPOSED OF GUARDS.

Under Section 9(b) of the Act, "no labor organization shall be certified as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards." A guard is defined as a person employed to "enforce against employees and other persons rules to protect [the] property of the employer . . ." *Id.*

In *Bellagio, LLC v. NLRB*, No. 16-1191, the D.C. Circuit recently held that surveillance technicians are "guards" under Section 9(b) of Act. In so holding, the Court expressly rejected the Board's narrow reading that the technicians could not be guards simply because they "made no rounds," and did not carry out functions akin to traditional plant security guards (*i.e.*, they did not confront guests, carried no weapons, and did not wear security uniforms or badges). *See id.* at *5. The Court's ruling considered key factors not given due weight by the Board, such as the technicians' duties in deterring, detecting, reporting, and investigating suspicious activity, the modern context in which their enforcement took place, their role in preventing and investigating misconduct by other employees, and their role in protecting the Employer's valuable assets generally. *Id.* at *9. In short, the *Bellagio* court affirmed the view that the statutory definition of "guard" is not limited to notions of a prototypical plant security guard, but includes employees who more broadly enforce rules against employees or patrons to protect the Employer's property or assets. *Id.* at *7; *see also MGM Grand Hotel*, 274 NLRB 139, 1398-40 (1985) (fire alarm and security system operators fell within statutory definition of "guard" even where sole duties were to observe and report); *Rhode Island Hosp.*, 313 N.L.R.B. 343, 346-47 (1993) (finding that shuttle van drivers were "guards"; "[A]lthough one of their primary duties is to transport

employees from building to building, they are also charged with the responsibility of being on the lookout for and reporting security problems or rules violations."); *see generally Am. Dist. Tel. Co.*, 160 N.L.R.B. 1130, 1136 (1966) ("guard" status is not limited to employees who enforce rules against other employees).

Similarly, in *A.W. Schlesinger Geriatric Ctr., Inc.*, 267 N.L.R.B. 1363 (1983), the Board considered the "guard" status of two maintenance employees who walked the employer's premises and – in addition to their maintenance duties – were authorized to ask that a trespasser or other employee cease creating a disturbance or that the unauthorized person leave. The Board found that, "although the maintenance employees have no special training as guards and do not wear guard uniforms or carry firearms, we conclude that the two night and weekend maintenance employees are employed for security purposes in addition to their maintenance duties." *Id.* at 1364. Significantly, the Board found that the maintenance employees were responsible for keeping unauthorized persons off the premises, even though they had been instructed to contact a supervisor or law enforcement officer first <u>and to avoid confrontation if possible</u>. The Board concluded that it was "sufficient that they possess and exercise responsibility to observe and report infractions, as this is an essential step in the procedure for enforcement of the [employer's] rules." *Id.* Further, the Board found it "not determinative that [these duties were] not their only function." *Id.*; *see also McDonnell Aircraft Co. v. NLRB*, 827 F.2d 324, 326-27 (8th Cir. 1987) (to qualify as a "guard" the performance of guard duties need not be the employee's only function, and it is sufficient that an employee is responsible for reporting rule infractions to his supervisor).

Here, the Employer's evidence will demonstrate that, in the context of a modern hotel-casino, the duties and responsibilities of slot technicians have evolved such that their core

functions now include enforcing the Employer's rules and policies against guests and employees to safeguard the Employer's property and assets. For instance, slot technicians:

- Play an integral and indispensable role in assisting the Nevada Gaming Control Board to investigate gaming irregularities and disputes – indeed, without the Slot Technicians, the Gaming Control Board could not investigate and resolve the disputes and issues.

- Protect the Company from fraudulent claims and payouts to guests by enforcing the Employer's procedures to verify payouts. Notably, the decision of the Employer on whether to payout a jackpot always follows the recommendation of the Slot Technician.

- Maintain, investigate, and verify bill validators to protect the Employer against counterfeit currency, counterfeit "EZ-Pay vouchers," claims that the machine failed to correctly pay or credit a guest, and other attempted theft and fraud.

- Protect the Employer from fraudulent claims of game malfunctions, lost credits, or failure to payout winning hands.

- Physically and electronically update and modify slot machines to protect the Employer from physical and/or software vulnerabilities and exploits.

- Implement the Employer's policies to ensure that newly-purchased or rented games are set up correctly; failure to do so could expose the Employer to significant gaming losses.

- Are entrusted with slot machine access keys, which would allow an individual to alter game outcomes and obtain access to the cash within the machine.

- Protect the Employer's games from tampering and other advantage play by inspecting and verifying slot machines that have higher-than-expected payout ratios.

- Monitor nearly every aspect of slot machines—from physical tampering or destruction to technical settings and data to prevent cheating or other illegal activities.

- Maintain security devices on slot machines (e.g. door sensors) and investigating and reporting breaches of the same.

- Review and address reports from vendors outlining new vulnerabilities and issues with machine software; individually check machines for vulnerabilities, verify machine game chips, and report any issues.

- Monitor the casino floor for underage, banned, or otherwise unauthorized guests consistent with Employer rules and policies, and escalate the matter to security as necessary.

These are not minor or incidental duties, but rather core job functions. The *Bellagio* court recognized that in today's casinos, tampering can happen in numerous and increasingly sophisticated ways.[1] The technicians are the front line of defense to these threats, and in some cases the only safeguard against potential loss to the Employer. Technicians thus receive extensive technical training on slot machine operations, detecting and preventing exploits or vulnerabilities, and are expected to resolve any issues in a timely manner so as to prevent further loss. Moreover, because technicians are the only employees with the technical expertise to fully investigate such issues, they are essential to detecting, investigating, and preventing malfeasance (whether by guests, vendors, or other employees) and the casinos could not properly maintain gaming security without the slot technicians. Technicians also act as an added layer of security against underage gambling, alcohol consumption, and illegal gaming activity.

Any failure or intentional misconduct by the technicians in diligently carrying out these duties jeopardizes the Employer's business. For instance, if a technician fails to check for security flaws or vulnerabilities, properly reset a jackpot, or repair a malfunctioning door sensor, the Employer could not only suffer monetary losses due to unintended payouts, but stands to be cited and/or fined by state regulators. The importance these functions is underscored by the fact that technicians who fail to do so with care are subject to discipline, up to and including termination of employment.

Consequently, the Employer places significant trust in the technicians when it comes to enforcing its rules for protecting its property and assets. The technicians' unique "know-how" and access to the thousands of slot machines on the property—making up the majority share of all gaming activity—makes the technicians an integral part of the Employer's efforts to

[1] Brendan Koerner, *Russians Engineer a Brilliant Slot Machine Cheat—And Casinos Have No Fix*, Wired, February 6, 2017, accessed August 9, 2017, available at: https://www.wired.com/2017/02/russians-engineer-brilliant-slot-machine-cheat-casinos-no-fix/.

safeguard its property and assets, and any violation of the trust placed in them would result in substantial loss of Employer property and assets. *Bellagio*, 2017 WL 3027221 at *9. Thus the authority, access, and trust given to technicians are factors that are relevant to their status as "guards" under the Act. *Id.*

In short, the petitioned-for unit is composed of employees whose core job duties include the enforcement of the Employer's rules against third-party guests, other employees, vendors, and contractors. By virtue of the above duties, they fall squarely within the statutory definition of "guard" under recent case law in *Bellagio,* and in line with Board precedent in *A.W. Schlesinger, MGM Grand* and their progeny. As there is no dispute that the Union admits to membership non-guard employees, the Union cannot be certified as the exclusive bargaining representative of the Slot Technicians and Slot Mechanics.

III. ELECTRONIC DEVICES SHOULD BE BANNED FROM THE VOTING AREA

The Employer also submits that – in the event the Regional Director directs an election – cameras, cell phones, and other electronic devices should be banned from the voting area. Electronic devices with the capability of taking photographs could be used to pressure team members to "prove" how they voted, undermining the premise of a secret ballot election. *See generally Columbine Cable Co., Inc.*, 351 N.L.R.B. 1087, 1087 (2007) ("The Board has long held that it is of vital importance to the Board's effectuation of the policies of the Act that the regularity of its elections be above reproach. And if the integrity of the Board's election process is to be maintained it is manifestly essential that employees be balloted in a secret election, for the secret ballot is a requite for a free election."); *N.W. Packing Co.*, 65 N.L.R.B. 890, 891 (1946) ("The secrecy of the ballot is essential in a Board-conducted election, and it may not be jeopardized.") Indeed, "the Board has consistently set aside elections where voting arrangements

could have led employees to believe they were being observed as they voted." *Columbine Cable*, 351 N.L.R.B. at 1088.

The potential use of cell phones and photography as tools of voter intimidation is widely recognized. The overwhelming majority of states restrict the photos or filming of a voter's own marked ballot. See Digital Media Law Project, State Law: Documenting the Vote 2012, available at http://www.dmlp.org/state-law-documenting-vote-2012#Washington (last visited July 10, 2017) (chart summarizing state laws restricting photographing a voter's own ballot and finding that at least 45 states had laws that either expressly restricted the practice or could be interpreted to do so). The rationale is straight forward – if a voter can "prove" how he or she voted, it enables voter coercion, pressure, and vote-buying.

There is no legitimate reason for these devices to be present in the voting area. They should be temporarily held by the Board agent(s) and/or observers and then returned to the team member once the team member has cast his or her ballot. At a minimum, voters should be clearly informed that the use of any such devices in the voting area is prohibited.

IV. CONCLUSION

For the reasons set forth above, the Employer respectfully requests that the Petition be dismissed. In the event that the Regional Director directs an election in this matter, the Employer further respectfully requests that the use of cell phones and other electronic devices be prohibited within the voting area.

Respectfully Submitted,

Date: December 22, 2017

/s/ Harriet Lipkin

Harriet Lipkin
DLA Piper LLP (US)
500 Eighth Street NW
Washington, D.C. 20004

Kevin Harlow
DLA Piper LLP (US)
401 B Street, Suite 1700
San Diego, CA 92101

CERTIFICATE OF SERVICE

I hereby certify this 22nd day of December, 2017, that a copy of the Employer's Station of Position, Attachments, Supporting Brief, and Commerce Questionnaire were electronically served on the Region through the Board's electronic filing system, and also served on:

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National Labor Relations Board
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/s/ Kevin Harlow
An Employee of DLA Piper LLP (US)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

NP PALACE LLC

Employer

and

Case 28-RC-211644

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

International Union of Operating Engineers Local 501, AFL-CIO (Petitioner) seeks to represent a unit of full-time and regular part-time slot technicians and utility technicians employed by NP Palace LLC (the Employer) at its Las Vegas, Nevada facility. The Employer asserts that Petitioner cannot be certified as the representative of the employees in the petitioned-for unit under Section 9(b)(3) of the National Labor Relations Act (the Act) because the unit includes guards, and Petitioner admits employees other than guards to membership. The Employer also requested the imposition of a ban on electronic devices in the voting area.

A hearing officer of the National Labor Relations Board (the Board) held a hearing in this matter, and the parties orally argued their respective positions prior to the close of the hearing. As explained below, based on the record and relevant Board decisions, I find the slot technicians and utility technicians are not guards. I further find that it is not appropriate for me to impose a ban on electronic devices in the voting area in these pre-election proceedings.

I. FACTS

The Employer operates a hotel and casino in Las Vegas, Nevada. The Employer's facility includes gaming spaces occupied, in part, by approximately 1,300 gaming machines.

The Employer employs approximately 11 slot technicians and utility technicians.[1] There is no functional distinction between them as they perform relatively the same work. Technicians work on the technical side of the Slot Department, which is under the direction of the Director of Slot Operations. The Slot Technical Manager and the Technical Project Specialist or Supervisor report to the Director of Slot Operations.

[1] Herein jointly referred to as "technicians".

Exhibit 5

Technicians install, maintain, and repair the gaming machines and software. A majority of their time is spent ensuring that the games are in proper working order. Technicians do not have the authority to resolve a complaint on their own. When there is a problem with a machine, technicians use their technical knowledge to check the status of the machine and relay the information to their supervisors to resolve the problem. For example, if a guest complains about a payout, the concern goes to a supervisor. Technicians do research to make sure the mechanics of the machines are working properly. The Employer's decision is then communicated to the guest by the supervisor. If the Director of Slot Operations sees a machine consecutively losing on too many days, then he asks a technician to check the machine against the settings of the game, and, if it is incorrect, the technician fixes it. Additionally, technicians are responsible for interacting with agents of the Nevada Gaming Control Board to facilitate their inspection of machines.

Besides aiding with claims of machine malfunction, technicians investigate possible fraud by customers. For example, a technician would be assigned to investigate whether there is evidence of tampering if irregular payouts are detected. Technicians also check a machine's history if a customer claims a bill validator (which validates cash or Ticket-In/Ticket-Out ticket) is jammed. The Employer would not be able to detect certain kinds of fraud without the work performed by technicians. Due to their intimate knowledge of the gaming systems, technicians are prohibited from gambling at the Employer's facility.

During the course of their shift, technicians are not allowed to interface with customers. During the course of a jackpot verification, technicians are not allowed to express a judgment or an opinion concerning the validity of a jackpot claim in the presence of a guest.

In order to perform their work, technicians carry keys that provide access to the machines' internal mechanisms. Technicians are not issued, nor do they carry, keys to the machine's internal cash can, which holds bills of various denominations.

Technicians, like all other employees of the Employer, are obligated to report malfeasances, such as underage gambling, underage drinking, and money laundering. Additionally, technicians, like all other employees, are required to report to security personnel any crime or suspicious activity they witness. However, technicians are not trained in hand-to-hand combat and are not allowed to physically touch guests, much less confront them.

The Employer has a Security Department, which is different from the Slot Department. The Security Department supervises the guards, whereas the Slot Department supervises the technicians. Guards wear police-like uniforms, but technicians wear uniforms that are worn by other maintenance employees. Guards and technicians are not interchangeable, and neither is qualified to perform the other's work duties. For example, guards receive training in typical security functions, perform regular security rounds, and are tasked with patrolling the Employer's exterior premises; technicians do not perform any of those enumerated duties.

Furthermore, technicians are not called upon to participate in "sting" operations to detect malfeasance by employees or customers. On this point, the Director of Slot Operations admitted that technicians have not participated in a "sting" operation during his employment.

II. ANALYSIS

A. Non-Guard Status of Technicians

Section 9(b)(3) of the Act prohibits the Board from certifying a labor organization as the representative of a guard unit if the labor organization has members who are non-guard employees. The Employer asserts the technicians are guards because the core function of a technician is to enforce the Employer's rules and policies against guests and employees to safeguard the Employer's property and assets. The parties stipulated that Petitioner admits non-guards to membership. Petitioner represents slot technicians at other non-Employer properties.

To be a guard under the Act, an individual must enforce rules to protect the property of the employer's premises against employees and other persons. *Reynolds Metal Co.*, 198 NLRB 120, 120 (1972). "[T]he Board has determined that employees are guards within the meaning of the Act if they are charged with guard responsibilities that are not a minor or incidental part of their overall responsibilities." *Boeing Co.*, 328 NLRB 128, 130 (1999).

"Guard responsibilities include those typically associated with traditional police and plant security functions, such as the enforcement of rules directed at other employees; the possession of authority to compel compliance with those rules; training in security procedures; weapons training and possession; participation in security rounds or patrols; the monitor and control of access to the employer's premises; and wearing guard-type uniforms or displaying other indicia of guard status." *Id.* The Board has rejected the assertion that an employee's "responsibility to report security problems confers guard status." *Id.* at 131.

While the Employer instructs technicians, as part of their job duties, to report to the Employer evidence of tampering with gaming machines or other fraudulent conduct, "[a] reporting function alone, without significant security-related responsibilities, [does not] confer guard status." *Id.* In *Boeing*, the Board rejected an assertion firefighters who were required "to be alert for suspicious activity while on their tours and question unfamiliar individuals on the premises" as well as "report suspicious activity to the security department rather than deal directly with it themselves" were guards. *Id.* at 131. The Board determined that "to the extent that the firefighters'...duties conferred upon them some limited guard responsibilities, those responsibilities were only a minor and incidental part of their overall responsibilities...and, thus, do not transform the firefighters into statutory guards." *Id.* at 131.

The Employer has not supported its claim that technicians are guards. The evidence presented does not show that technicians enforce rules to protect property against employees and other persons. From the evidence of record, technicians do not perform any of the traditional guard responsibilities identified by the Board in *Boeing*. Technicians were not hired to perform any security functions, and perform no security functions beyond what would be expected of any other employees.

Any guard-like responsibilities conferred on technicians are, like the firefighters in *Boeing*, a minor and incidental part of their primary responsibility of providing services to guests

gambling on the Employer's slot machines. As stated above, technicians do not confront people but are instead expected to report to the Employer.

The Employer pointed to the recent circuit court decision *Bellagio, LLC v. NLRB*, No. 16-1191, 2017 WL 3027221 (D.C. Cir. July 18, 2017), in asserting that because technicians play in integral role in detecting and investigating loss and malfeasance in connection with gaming machines, technicians are guards. In that decision, the key issue was whether surveillance technicians were guards under the Act. In finding that the surveillance technicians were guards, the Court focused on four facts: (1) that certain surveillance/security personnel could not perform their job functions without the surveillance technicians, (2) the Board did not give due consideration to the status of security in modern casinos, (3) surveillance technicians could control what surveillance/security personnel viewed via surveillance camera due to their access to the equipment and surveillance-critical areas of the casino, and (4) surveillance technicians were tasked with enforcing rules against fellow employees.

The only factor that technicians in this case share with those in *Bellagio* is that they work in a casino. The technicians' responsibilities here are distinct from security functions. I am, therefore, refusing to find that the Union cannot be certified as the representative of technicians on that basis.

B. The Employer's Request to Ban Electronic Devices in the Voting Area

The Employer has requested that nobody be permitted to possess electronic devices in the polling area. Section 102.64 of the Board's Rules and Regulations states that the purpose of pre-election hearings is to determine whether a question of representation exists. The Employer's request goes beyond that purpose, insofar as it raises an issue concerning the manner in which the election will be conducted. In any event, the Board agent assigned to conduct the election and the parties' observers can monitor the polling area to ensure electronic devices are not being used in a manner that will interfere with the required laboratory conditions for an election, and, if electronic devices are used in the polling area during the election, either party can raise the question of whether such conduct was objectionable in timely filed objections.

III. CONCLUSION

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.[2]

3. Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.[3]

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time slot technicians and utility technicians employed by the Employer at its Las Vegas, Nevada facility, excluding all other employees, office clerical employees, professional employees, guards, and supervisors as defined in the Act.[4]

There are approximately 11 employees in the unit found appropriate.

IV. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for the purposes of collective bargaining by INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO.

A. Election Details

The election will be held on Tuesday, January 9, 2018, from 11:30 a.m. to 1:30 p.m. and 2:30 p.m. to 4:30 p.m. at Salon G at the Employer's facility, located at 2411 West Sahara Avenue, Las Vegas, Nevada.

---

[2] I find, based on the stipulations of the parties and the record evidence, that the Employer, NP Palace LLC, a limited liability company with an office and place of business in Las Vegas, Nevada, has been engaged in the operation of a hotel and casino, providing gaming, lodging, entertainment, and dining services. During the 12-month period ending December 15, 2017, the Employer, in conducting its business operations described above, derived gross revenue in excess of $500,000. During the same period of time, the Employer purchased and received at its Nevada facility goods valued in excess of $50,000 directly from points outside the State of Nevada.

[3] The parties stipulated, and I find, that Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

[4] The unit found appropriate conforms with the unit sought by Petitioner. The Employer did not contend that the unit was not appropriate, in the event that the technicians were found not to be guards within the meaning of Section 9(b)(3) of the Act.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending December 31, 2017, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the Regional Director and the parties by **Thursday, January 4, 2018**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties name in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.
Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

V. RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE Washington, D.C. 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Phoenix, Arizona, this 3rd day of January, 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

FORM NLRB-760
(12-82)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

NP PALACE LLC **Employer** **and** **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO** **Petitioner**	Case No: 28-RC-211644 Date Filed: December 15, 2017 Date Issued: January 9, 2018 **Type of Election** *(Check One:)* — *(If applicable check Either or Both:)* ☐ Stipulation ☐ 8(b) (7) ☐ Board Direction ☐ Mail Ballot ☐ Consent Agreement ☒ RD Direction Incumbent Union *(Code)*

TALLY OF BALLOTS

The undersigned agent of the Regional Director certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated above, were as follows:

1.	Approximate number of eligible voters	11	
2.	Number of Void ballots	0	
3.	Number of Votes cast for **PETITIONER**		11
4.	Number of Votes cast for _____		XXXXXXX
5.	Number of Votes cast for _____		XXXXXXX
6.	Number of Votes cast against participating labor organization(s)		0
7.	Number of Valid votes counted (sum of 3, 4, 5, and 6)		11
8.	Number of Challenged ballots		0
9.	Number of Valid votes counted plus challenged ballots (sum of 7 and 8)		11
10.	Challenges are (not) sufficient in number to affect the results of the election.		

11. A majority of the valid votes counted plus challenged ballots (Item 9) has (~~not~~) been cast for **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO**

For the Regional Director, Region 28 Stephen Kopitt

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For: **NP PALACE LLC**

For: **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO**

Exhibit 6

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

NP PALACE LLC **Employer** **and** **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO** **Petitioner**	**Case 28-RC-211644**

TYPE OF ELECTION: RD DIRECTION

CERTIFICATION OF REPRESENTATIVE

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board, it is certified that a majority of the valid ballots have been cast for **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO,** and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit.

UNIT: All full-time and regular part-time slot technicians and utility technicians employed by the Employer at its Las Vegas, Nevada facility; excluding, all other employees, office clerical employees, professional employees, guards, and supervisors as defined in the Act.

Signed at Phoenix, Arizona on the 18th day of January 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

Exhibit 7

Certification of Representative with Notice of Bargaining Obligation served to the following parties:

NP Palace LLC
2411 West Sahara Avenue
Las Vegas, NV 89102-4377

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International Union of Operating
Engineers Local 501, AFL-CIO
301 Deauville Street
Las Vegas, NV 89106

CAO/SPK/dmm

NOTICE OF BARGAINING OBLIGATION

In the recent representation election, a labor organization received a majority of the valid votes cast. Except in unusual circumstances, unless the results of the election are subsequently set aside in a post-election proceeding, the employer's legal obligation to refrain from unilaterally changing bargaining unit employees' terms and conditions of employment begins on the date of the election.

The employer is not precluded from changing bargaining unit employees' terms and conditions during the pendency of post-election proceedings, **as long as** the employer (a) gives sufficient notice to the labor organization concerning the proposed change(s); (b) negotiates in good faith with the labor organization, upon request; and (c) good faith bargaining between the employer and the labor organization leads to agreement or overall lawful impasse.

This is so even if the employer, or some other party, files objections to the election pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board (the Board). If the objections are later overruled and the labor organization is certified as the employees' collective-bargaining representative, the employer's obligation to refrain from making unilateral changes to bargaining unit employees' terms and conditions of employment begins on the date of the election, not on the date of the subsequent decision by the Board or court. Specifically, the Board has held that, absent exceptional circumstances,[1] an employer acts at its peril in making changes in wages, hours, or other terms and conditions of employment during the period while objections are pending and the final determination about certification of the labor organization has not yet been made.

It is important that all parties be aware of the potential liabilities if the employer unilaterally alters bargaining unit employees' terms and conditions of employment during the pendency of post-election proceedings. Thus, typically, if an employer makes post-election changes in employees' wages, hours, or other terms and conditions of employment without notice to or consultation with the labor organization that is ultimately certified as the employees' collective-bargaining representative, it violates Section 8(a)(1) and (5) of the National Labor Relations Act since such changes have the effect of undermining the labor organization's status as the statutory representative of the employees. This is so even if the changes were motivated by sound business considerations and not for the purpose of undermining the labor organization. As a remedy, the employer could be required to: 1) restore the status quo ante; 2) bargain, upon request, with the labor organization with respect to these changes; and 3) compensate employees, with interest, for monetary losses resulting from the unilateral implementation of these changes, until the employer bargains in good faith with the labor organization, upon request, or bargains to overall lawful impasse.

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1 Exceptions may include the presence of a longstanding past practice, discrete event, or exigent economic circumstance requiring an immediate response.

NP PALACE LLC **and** **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO**	**Case No. 28-RC-211644**

EMPLOYER'S REQUEST FOR REVIEW OF THE REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION AND CERTIFICATION OF REPRESENTATIVE

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(619) 699-3402

Attorneys for Employer,
NP PALACE LLC

January 29, 2018

Exhibit 8

Pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, NP Palace LLC ("Palace" or "Employer") hereby requests review of the Decision and Direction of Election ("D&DE") issued by Region 28 (the "Region") on January 3, 2018, and the Certification of Representative ("Certification") (collectively, the "Decisions") issued by the Region on January 18, 2018.

I. INTRODUCTION

The Petitioner, International Union of Operating Engineers Local 501, AFL-CIO ("Union" or "Petitioner"), seeks to represent a unit composed of all slot technicians and utility technicians ("Technicians") at the Employer's facility. [1] A core function of the Technicians' duties is to protect the Employer's property and assets from fraud and theft. Palace presented overwhelming and undisputed evidence that the Technicians enforce the Employer rules and policies to prevent fraudulent payouts; protect against counterfeit currency and "EZ-Pay vouchers"; safeguard the Employer against fraudulent claims of game malfunctions, lost credits, or failure to pay winning hands; verify game settings to ensure that payout percentages have not been intentionally or inadvertently altered; investigate and address machines that display an irregular payout pattern; and protect the Employer from tampering, advantage play, and physical and software vulnerabilities, among other duties. In short, they "enforce against employees and other persons rules to protect [the] property of the employer" and are therefore "guards" within the meaning of the Act.

The Region disregarded this undisputed evidence, focusing instead on the thoroughly discredited notion that only prototypical plant security guards who perform police-like functions

[1] Mr. Albert Orosco, Director of Slot Operations at Palace Station, testified that that there is no functional distinction between the slot technicians and the utility technicians as they perform the same work. (Ex. C, Pre-Election Tr. at 14:10-13; *see also* Ex. A, D&DE at 1.)

– such as physically confronting guests, wearing "guard-type" uniforms and carrying firearms – are guards under the Act. That reasoning was recently rejected by the D.C. Circuit in *Bellagio, LLC v. NLRB*, 863 F.3d 839 (D.C. Cir. 2017); is inconsistent with the plain language of the Act; departs from historical Board precedent; and, as pointed out in *Bellagio*, is premised on a stagnant view of the Act that fails to account for the "peculiar" realities of an "ultramodern luxury casino." The Region's reliance on that reasoning was plain error.

Accordingly, there are compelling reasons to grant this review in that: (1) the Decisions depart from officially-reported Board precedent; (2) the Decisions rely on clearly erroneous and prejudicial factual determinations; and (3) the Region committed prejudicial error. Alternatively, to the extent the Decisions correctly apply Board precedent – namely *Boeing Co.*, 328 N.L.R.B. 128 (1999) – that precedent is simply wrong, inconsistent with the plain language of the Act, conflicts with better-reasoned Board and federal case law, and should be overturned.

II. STATEMENT OF THE CASE

On December 15, 2017, the Union petitioned to represent a unit composed of all Technicians at the Employer's facility. On December 22, 2017, the Employer filed its position statement, maintaining that the Petition must be dismissed because the Technicians are "guards" within the meaning of the Act. The pre-election hearing was held on December 27, 2017.

During the course of the pre-election hearing, the Employer presented extensive evidence, including the testimony of Mr. Albert Orosco, Director of Slot Operations at Palace Station, and Mr. Richard DeGuise, a former Nevada Gaming Control Board Agent, that its Technicians enforce its rules and policies in order to protect the its property and assets (*i.e.*, funds). For instance, the Employer presented undisputed evidence that the Technicians:

- Protect the Employer from fraudulent claims by enforcing the Employer's procedures to verify payouts. Indeed, the decision of the Employer on whether to payout a jackpot

always follows the investigation and recommendation of the Technicians. (Ex. C, Pre-Election Tr. at 22:25-23:6, 25:16-25; *see also* Ex. D, Er. Ex. 1 to Pre-Election Hearing.)[2]

- Maintain, investigate and verify bill validators to protect the Employer against counterfeit currency, counterfeit "EZ-Pay vouchers," claims that the machine failed to correctly pay or credit a guest, and other attempted theft and fraud that happen on a daily basis. The Technicians are the only employees on the Employer's property with technical expertise to fully investigate such issues; hence, they are relied upon by supervisors on a near constant basis to detect and investigate potential fraud. (*Id.* at 16:8-18:18, 21:11-22:12, 27:18-29:12, 58:20-59:8, 60:17-61:4.)

- Protect the Employer from fraudulent claims of game malfunctions, lost credits, or failures to payout winning hands. (*Id.* at 22:13-24, 27:18-29:12.)

- Physically and electronically update and modify slot machines to protect the Employer from physical and/or software vulnerabilities and exploits. (*Id.* at 26:8-27:17; *see also* Er. Ex. 2 to Pre-Election Hearing.)

- Monitor, investigate and resolve nearly every aspect of slot machines – from physical tampering to destruction to technical settings and data – to prevent cheating or other fraudulent activities. (Id. at 14:14-19, 33:19-34:5, 56:21-57:12.)

- Protect the Employer's games from tampering or other advantage play by inspecting and verifying slot machines that have higher-than-expected payout ratios. (*Id.* at 32:17-33:18.)

- Implement the Employer's policies to ensure that newly-purchased or rented games are set up correctly; failure to properly verify the settings could expose Employer to significant gaming losses. (*Id.* at 29:16-30:25.)

- Review and address reports from vendors outlining new vulnerabilities and issues with machine software; individually check machines for vulnerabilities, fix vulnerabilities in games, and report any issues. (*Id.* at 26:8-27:17.)

- Identify and investigate mistakes or intentional misconduct by other Technicians by reviewing machine data and reporting findings to the supervisor. (*Id.* at 39:14-22, 40:11-41:8, 54:7-12; *see also* Er. Ex. 5 to Pre-Election Hearing.)

- Are entrusted with slot machine access keys, which – if used nefariously – would allow an individual to alter game outcomes and obtain access to the cash within the machine. (*Id.* at 34:6-35:7, 39:14-22, 68:4-14; *see also* Er. Ex. 4 to Pre-Election Hearing.)

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[2] All cited transcript pages and Employer exhibits from the pre-election hearing are attached under Exhibits C and D, respectively.

- Enforce the Employer's rules and policies against underage gaming, which protects the Employer against both legal liability and the potential loss of its gaming license. (*Id.* at 38:9-23.)

- Enforce the Employer's rules and policies against underage drinking by directly stopping or escalating the matter to security as necessary. (*Id.* at 38:24-39:7.)

- Make rounds to monitor the casino floor for banned or otherwise unauthorized guests or team members and for any suspicious activities to prevent fraudulent or illegal transactions. (*Id.* at 19:10-19, 39:8-13, 56:7-14.)

- Play an integral and indispensable role in assisting the Nevada Gaming Control Board to investigate gaming irregularities and disputes – indeed, without the Technicians, the Nevada Gaming Control Board cannot investigate and resolve the disputes and issues. (*Id.* at 37:19-38:8, 69:23-70:6, 71:2-73:8.)

- Play a critical role in assisting the Nevada Gaming Control Board by forming probable cause to effect an arrest when guests are detained for engaging in attempted theft or fraud. (*Id.* at 65:10-14, 73:9-74:6.)

Despite this overwhelming evidence, on January 3, 2018, the Regional Director issued the D&DE and rejected the Employer's contention that the petitioned-for unit was comprised of guards. (Ex. A.) The election was held on January 9, 2018, and the Petitioner received a majority of the valid votes cast. On January 18, 2018, the Region certified the Union as the exclusive representative of the petitioned-for unit. (Ex. B.)

III. THE TECHNICIANS ARE STATUTORY "GUARDS"

Section 9(b) of the Act defines a guard as a person employed to "**enforce against employees and other persons *rules to protect [the] property of the employer*** or to protect the safety of persons on the employer's premises . . . ." *Id.* (emphasis added).

Consistent with the plain language of the statute, the Board has repeatedly held that the definition of "guard" is not limited to notions of a prototypical plant security guard, but includes employees who more broadly enforce rules against employees or patrons to protect the Employer's property or assets. For instance, in *A.W. Schlesinger Geriatric Ctr., Inc.*, 267 N.L.R.B. 1363 (1983), the Board considered the "guard" status of two maintenance employees

who walked the employer's premises and – in addition to their maintenance duties – were authorized to ask that a trespasser or other employee cease creating a disturbance or that the unauthorized person leave. The Board found that, "although the maintenance employees have no special training as guards and do not wear guard uniforms or carry firearms, we conclude that the two night and weekend maintenance employees are employed for security purposes in addition to their maintenance duties." *Id.* at 1364. Significantly, the Board found that the maintenance employees were responsible for keeping unauthorized persons off the premises, even though they had been instructed to contact a supervisor or law enforcement officer first and to avoid confrontation if possible. The Board concluded that it was "sufficient that they possess and exercise responsibility to observe and report infractions, as this is ***an essential step in the procedure for enforcement of the [employer's] rules***." *Id.* Further, the Board found it "not determinative that [these duties were] not their only function." *Id.*; *see, e.g., Rhode Island Hosp.*, 313 N.L.R.B. 343, 346-47 (1993) (finding that shuttle van drivers were "guards"; "[A]lthough one of their primary duties is to transport employees from building to building, they are also charged with the responsibility of being on the lookout for and reporting security problems or rules violations."); *MGM Grand Hotel*, 274 NLRB 139, 1398-40 (1985) (fire alarm and security system operators fell within statutory definition of "guard" even where sole duties were to observe and report); *Am. Dist. Tel. Co.*, 160 N.L.R.B. 1130, 1136 (1966) ("guard" status is not limited to employees who enforce rules against other employees); *McDonnell Aircraft Co. v. NLRB*, 827 F.2d 324, 326-27 (8th Cir. 1987) (to qualify as a "guard" the performance of guard duties need not be the employee's only function, and collecting cases holding that "unarmed courier service drivers," "fitting room checkers," "armored car guards," and "receptionists, fire patrolmen, chauffeurs and investigators" were "guards" under the Act); *see also Walterboro Mfg.*

Corp., 106 NLRB 1383, 1384 (1953) ("It is the nature of the duties of guards and not the percentage of time which they spend in such duties which is controlling.").

Similarly, that the Technicians do not themselves personally confront individuals or resolve instances of misconduct is not dispositive in determining guard status. In *Wright Mem'l Hosp.*, 255 N.L.R.B 1319, 1320 (1980), the Board concluded that ambulance drivers who were "on the lookout for fire, theft, vandalism, and unauthorized personnel" were guards under the Act even though the drivers, upon discovering an irregularity or violation, took "no action on their own" but instead informed a department head who would then take action. The Board reasoned that it was sufficient that the drivers had "responsibility to observe and report infractions," an "essential step in the procedure for enforcement of [the employer's] rules," and that it was "immaterial" that the drivers did not themselves enforce the employer's rules. *See also Local 3, Int'l Bhd. of Elec. Workers v. NLRB*, 1987 WL 14923 at *1 (S.D.N.Y. Jul. 22, 1987) (electronic technicians were guards within the meaning of the Act where they monitored the fire management system and notified the appropriate authorities in the event of a problem).

In *Boeing Co.*, 328 N.L.R.B. 128 (1999), the Board departed from this precedent, holding that "guard responsibilities include [only] those typically associated with traditional police and plant security functions," such as weapons training, wearing "guard-type" uniforms, and having authority to "compel" compliance with the employer's rules. *Id.* at 130. As pointed out by Member Brame in his dissent, the Board's new formulation of the test for "guard" status was inconsistent with the plain text of the statute, the Eight Circuit's decision in *McDonnell Aircraft*, and historic Board precedent. *Id.* at 133-34 (Brame, dissenting). Indeed, the case upon which *Boeing* relied for most of its analysis – *Burns Sec. Servs.*, 300 N.L.R.B. 298 (1990) – had been set aside by the Eighth Circuit in *BPS Guard Servs., Inc. v. NLRB*, 942 F.2d 519 (8th Cir. 1991)

before *Boeing* was even issued. Put simply, *Boeing*'s holding that only persons who perform "traditional" police-like functions are guards is poorly reasoned, inconsistent with the plain language of the statute and Board precedent, and has been repeatedly rejected by the federal appellate courts.[3]

Indeed, the D.C. Circuit's recent decision in *Bellagio, LLC v. NLRB*, 863 F.3d 839, 848-49 (D.C. Cir. 2017), again rejected the Board's narrow definition of "guard" and found – consistent with the Board's historic view – that a casino's surveillance technicians were "guards" under Section 9(b) of the Act. The D.C. Circuit expressly rejected the Board's argument that the technicians could not be guards simply because they "made no rounds," and did not carry out functions akin to traditional plant security guards (*i.e.*, they did not confront guests, carried no weapons, and did not wear security uniforms or badges) on the basis that there is no statutory requirement whatsoever that a guard must personally confront other individuals. *See id.* The D.C. Circuit affirmed that it is sufficient that the casino's technicians play an integral role in effectuating the employer's rules and policies and that their lack of direct contact with the wrongdoers did "not detract from their guard status." *Id.* at 849 (quoting *A.W. Schlesinger Geriatric Ctr., Inc.*, 267 N.L.R.B. at 1364). The Court's ruling considered key factors not given due weight by the Board, such as the technicians' duties in deterring, detecting, reporting, and investigating suspicious activity, the modern context in which their enforcement took place, their role in preventing and investigating misconduct by other employees, and their role in protecting the Employer's valuable assets generally. *Id.* at 849-52. In particular, the Board failed to give due weight to the "peculiar" context of an "ultramodern luxury casino" and the "technological advance[s]" in hotel-casino security. *Id.* at 850-51. In short, the D.C. Circuit implicitly rejected

[3] The Board has repeatedly overruled poorly-reasoned precedent when necessary to return to well-established doctrine with a sound basis in the Act. *See, e.g.*, *Hy-Brand Indus. Contractors*, 365 N.L.R.B. No. 156 (2017).

the Board's approach in *Boeing* and concluded that, because the evidence, taken as a whole, demonstrated that surveillance technicians "perform an essential step in the enforcement of rules to protect the casino's property and patrons, including enforcement against their fellow employees" they were guards within the meaning of the Act, notwithstanding their lack of "traditional" guard duties. *Id.* at 849.

Here, the Region committed the same errors as the Board in *Bellagio*. First, the Region disregarded the overwhelming and undisputed evidence that a core function of the Technicians' duties is to enforce rules against casino guests and other third-parties to protect the Employer's property and assets. Instead, it focused exclusively on whether the Technician's perform "traditional" security functions, such as physically confronting guests. For example, in rejecting the Employer's contention that the petitioned-for unit was composed of guards, the Region acknowledged that the Technicians play an essential role in detecting, investigating and reporting fraud with respect to gaming machines on the Employer's property and in verifying jackpots against fraudulent payouts, but nonetheless held that "a guard is expected to confront people, not merely report to the Employer [his or her findings]." (Ex. A.) Likewise, the Region focused on the fact that the Technicians are not interchangeable with the Employer's more traditional security officers – ignoring that the technicians in *Bellagio* (as well as the ambulance drivers, fitting room checkers, chauffeurs, firemen, and maintenance employees in the cases discussed above) were also not interchangeable with traditional police-like security officers. Most critically, the Region focused on superficial factual distinctions between this case and *Bellagio* – such as that the Technicians are not involved in "sting" operations – but missed the actual point of *Bellagio*: that the statutory definition of "guard" encompasses more than prototypical security officers.

Likewise, the Region failed to consider the context of an "ultramodern luxury casino." As explained by the Employer's witnesses, with the evolution from mechanical to electronic slot machines, the role of the Technicians is no longer that of a mechanical repairman. Nor is the primary risk to the Employer's assets that a casino patron will physically smash a slot machine and flee with a can of quarters. Rather, in the modern context, the danger is unscrupulous individuals who try to take advantage of all aspects of the Employer's slot machine operation, ranging from the initial bill validation, to fraudulent payouts and tampering, to claims of lost credits, to fraudulent "EZ-Pay" tickets. *See Bellagio*, 863 F.3d at 842, 850-51. The undisputed evidence is that the Technicians' responsibility to protect the Employer's property from such fraud and theft is an essential step in enforcing the Employer's rules and policies. In particular, the Technicians' unique "know-how" and access to the thousands of gaming machines on the property – making up the majority of all gaming activity – makes these Technicians an integral part of the Employer's efforts to safeguard its property and assets. Thus, because they enforce the Employer's rules against "other persons" to protect the Employer's "property" and assets, they are "guards" within the meaning of the Act.

IV. CONCLUSION

For the reasons set forth above, the Decisions should be set aside and the Petition should be dismissed.

Date: January 29, 2018

Respectfully Submitted,

/s/ Harriet Lipkin

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CERTIFICATE OF SERVICE

I hereby certify this 29th day of January, 2018, that a copy of the Employer's Request for Review, including Exhibits, was electronically served on:

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An Employee of DLA Piper LLP (US)

Exhibit C

1 A. And then for operations side is our operations manager,
2 our slot managers, slot shift supervisors, and then GSA or
3 gift service attendants.
4 Q. As the director of slot operations, are you personally
5 familiar with the day-to-day duties and responsibilities of
6 the slot technicians?
7 A. I am.
8 Q. And what about the utility technicians?
9 A. I am.
10 Q. At your property, is there any functional distinction
11 between slot technicians and the utility technicians?
12 A. Currently at this time, no. Our utility technicians and
13 our slot technicians perform relatively the same work.
14 Q. Okay. And what are the core job functions of the
15 technicians?
16 A. I think the primary responsibility is going to be to
17 monitor and maintain all aspects of the slot machine,
18 whether physical or electronic, to safeguard company assets,
19 and to make sure that the games are in proper working order.
20 Q. Okay. And you mentioned slot machines. What type of
21 machines are these technicians responsible for?
22 A. Our casino has multiple different slot machines, whether
23 it's a stepper reel product or a video product or even a
24 video poker, interactive type game.
25 Q. And just to make sure the record's clear for those of us

1 and the evolution of the surveillance technician position in
2 reaching its conclusion in that case.
3 HEARING OFFICER KOPSTEIN: The objection is overruled.
4 Q. BY MR. HARLOW: You can answer.
5 A. So the slot machines, over the course of years, have
6 changed dramatically from more of a mechanical device, if
7 you will, to something that's far more technical these days.
8 Q. Are there any ways in which guests may try to cheat or
9 scam the Company as to video poker machines?
10 A. With a video poker machine, I think we'll get more of a
11 guest opportunity trying to take advantage of the machines
12 because they file claims about how a card didn't hold
13 correctly or how a payout didn't come through on the game
14 the proper way.
15 Q. And just for the reader of record, who may not be
16 familiar with video poker, can you just describe in plain
17 English what you're talking about in terms of holding a
18 card?
19 A. I apologize. So with the video poker machine
20 specifically, you interact with the machine. You get to
21 choose kind of the outcome for the game. So if you're dealt
22 X five cards, you can choose to keep or throw away those
23 cards for another set. It's actually one of the first
24 skill-based typing if you will.
25 Q. And what is -- so how might a guest try to cheat the

1 Company with respect to those machines?
2 A. Typically, they'll get a complaint that a card didn't
3 hold. Like I said, you interact with the game. So you
4 press the button to hold the card. A lot of times, we'll
5 get someone who claims the card didn't hold it or it dropped
6 off or I was trying for something different and it wasn't
7 there.
8 Q. And what is the slot technician's role in resolving
9 those types of issues?
10 A. Usually the guest will file the complaint with the slot
11 supervisor, but it will be the slot technician who actually
12 does the research on the game to find out if there's any
13 true issue with the machine.
14 Q. And when you say do research on the machine, what do you
15 mean?
16 A. They'll be the ones to go into the machine to make sure
17 that all the mechanics of it or the electronics of it are
18 actually working properly, that if it was a touchscreen
19 issue or a button issue, that not only is the problem
20 identified, but it's resolved.
21 Q. Okay. And does the slot technician make a
22 recommendation to the supervisor as to the technical
23 functionality of the machine?
24 A. Yes. Yes, the slot technician will inform the
25 supervisor of any issues that he may have on the machine,

1 whether they're positive or negative. They give the actual
2 what happened with the device, if you will.
3 Q. Okay. And who is the one who actually communicates the
4 Company's decision to the guest?
5 A. The actual decision is communicated to the guest by the
6 slot supervisor.
7 Q. Okay.
8 A. So they'll take the information that the slot technician
9 will give to them into consideration as to whether they
10 should or should not make that payment, if you will.
11 Q. Okay. And is the recommendation of the slot technician
12 typically followed by the supervisor?
13 A. Traditionally, yes. Under certain circumstances, the
14 supervisor may deviate from the recommendation, but it's
15 most likely for a -- to make the situation better for the
16 guest because they're a better player, not necessarily
17 because the slot technician said there was something wrong
18 or there wasn't something wrong.
19 Q. Can you give us an example of when a slot supervisor
20 might deviate from the slot technician's recommendation?
21 A. One of the best examples are always when it looks as
22 though a true payout is there. Sometimes on certain
23 machines, the reels, they're a stepper reel kind of a game,
24 where they have an overlay that goes over the top, and
25 they'll come loose from time to time. And so it will look

1 as though there's an actual payout on the machine even
2 though the machine didn't pay it out. The machine doesn't
3 know what the overlay is. It just knows that something else
4 goes on top of it. That's what translates to the player.
5 The technician can come back and say that there's no actual
6 problem with the machine, that it truly paid out what it was
7 supposed to, but the reel had slipped off or was in the
8 wrong position. And often the supervisor will decide to pay
9 the guest based on perception.
10 Q. Okay. And throughout my question, I've been using the
11 term "guest." Do team members -- do other team members also
12 play at the property?
13 A. Yes.
14 Q. And is there any functional difference in a slot
15 technician's role when it's a team member playing on the
16 machine versus an outside guest or third party guest?
17 A. As far as the decision on what happens?
18 Q. Yes.
19 A. No, it'll be identical.
20 Q. Okay. Are you familiar with the bill validator?
21 HEARING OFFICER KOPSTEIN: I'm sorry. If you could just
22 clarify about team member?
23 MR. HARLOW: Sure. Team member is their term for
24 employee.
25 HEARING OFFICER KOPSTEIN: Can you just clarify what a

1 voucher can be placed inside of a validator, if you will,
2 and the system will read it and decide if it's valid or not.
3 Q. Is that the same thing as an easy pay ticket?
4 A. Yeah.
5 Q. And just so the record's clear, some, you know, for
6 example, I'm playing a slot machine and I hit, you know,
7 $100 jackpot. I've got $200 in the machine and I cash out,
8 the printed out ticket is worth $200, and that's the TITO
9 ticket?
10 A. It's the total value of what's cashed out, yes.
11 Q. Are there any ways that guests may attempt to cheat the
12 Company with respect to the bill validators?
13 A. Often you'll get a guest that will file a complaint with
14 a supervisor saying that their bill wasn't accepted or
15 something, jammed into the machine, and we'll call a
16 technician to come look at it and find out what's wrong with
17 it.
18 Q. And what's the slot technician's role? What does he do?
19 A. They would be the one to go into the transport, find out
20 if there's anything jammed in it, going to the cash can to
21 find out if it's jammed. They'll review the history, the
22 game history, and then if need be, they'll be the ones who
23 will go open the cash can and actually find out the
24 denomination there.
25 Q. Okay. Without the slot tech, would the slot supervisor

1 be able to tell whether the guest was making a true or false
2 claim?
3 A. No.
4 Q. In your experience, are you aware of a supervisor ever
5 overruling a slot technician's recommendation as to the
6 technical conclusion of the slot technician?
7 A. No. The slot supervisor might decide to go a different
8 route or take care of the guest based on service
9 expectations, but when it comes to the validity of what
10 actually happened with the machine, when it comes to the
11 integrity of the machine and what happened to it, I believe
12 that the slot technician's role is conclusive.
13 Q. Okay. I want to turn your attention to what I'll call a
14 traditional slot machine where the reels spin and you, you
15 know, hit the line or you don't. Is there -- are there ways
16 in which guests will attempt to cheat the Company with
17 respect to those machines?
18 A. Yes.
19 Q. And how might they do that?
20 A. When it comes to the reels that actually spin around or
21 anything, guests will claim that a jackpot hit it or that
22 the machine didn't pay out the proper amount or that there
23 was a malfunction with it, if the door were to open in some
24 way or another.
25 Q. Okay. And, again, what is the slot technician's role in

1 those type of events?
2 A. Traditionally, the slot tech will be the one that's
3 first called out to actually review the game, find out if
4 there's truly an issue with it or to find out if there's any
5 problems that need to be addressed and if the jackpot is
6 truly there or not.
7 **(Employer's Exhibit 1 marked for identification.)**
8 Q. BY MR. HARLOW: Let me show you a document we've marked
9 as Employer's 1, and go ahead and take a minute to review
10 it. Do you recognize this document?
11 A. I do.
12 Q. Okay. And what is it?
13 A. It's a jackpot verification policy. It's the process
14 that you use for the slot technician to actually verify the
15 signature or the hash of the game.
16 Q. Okay. And is this a true and correct copy of the
17 document?
18 A. It is.
19 MR. HARLOW: We move to admit it as Employer's 1.
20 MR. STERN: Voir dire, please.
21 HEARING OFFICER KOPSTEIN: Okay.
22 **VOIR DIRE EXAMINATION**
23 Q. BY MR. STERN: Where did you get this?
24 A. It was issued to me earlier today.
25 Q. By who?

1 **(Employer's Exhibit 2 marked for identification.)**
2 Q. BY MR. HARLOW: I'm going to show you a document that
3 I've marked as Employer's Exhibit 2. Go ahead and take a
4 minute to look it over, and then look up when you're done.
5 A. Okay.
6 Q. Do you recognize this document?
7 A. I do.
8 Q. And what is it?
9 A. This is a mandatory notice issued by IGT for invalid
10 software.
11 Q. And is this a true and correct copy of the document?
12 A. It is.
13 MR. HARLOW: We move to admit Employer's 2.
14 HEARING OFFICER KOPSTEIN: Any objection?
15 MR. STERN: I don't see the relevance, but I'm not going
16 to object.
17 HEARING OFFICER KOPSTEIN: Okay. Employer 2 is
18 received.
19 **(Employer's Exhibit 2 received in evidence.)**
20 Q. BY MR. HARLOW: And how does the Company receive these
21 types of documents?
22 A. Well, the documents are sent to us by email or via the
23 documentation to find out if we have any games on the floor
24 that actually meet the criteria of anything that has been
25 revoked. And then when the software comes in, we'll have it

1 replaced.
2 Q. Okay. And what type of issues in your experience might
3 result in this type of mandatory notice?
4 A. It could be a multitude of different issues. This one
5 in particular pertains to the theoretical payback not being
6 calculated correctly, but there could be inappropriate
7 symbols inside the game. There could be multiple -- any
8 kind of software or technical issue with the software itself
9 could mandate either a mandatory or advisory notice.
10 Q. Okay. And does that include potential vulnerabilities
11 in the software?
12 A. Yeah, absolutely. If there's a glitch or any kind of
13 issue with the software, a mandatory notice is issued
14 immediately.
15 Q. Okay. And what is the slot technician's role upon
16 receipt of one of these mandatory notices?
17 A. They would be the ones to install the software.
18 Q. Okay. Turning back to the machines, are there instances
19 in which guests claim that they're owed extra credits so
20 that their credits aren't properly reflected in the machine?
21 A. Absolutely. Again, there's multiple guest opportunities
22 that will happen where a guest will claim that they added
23 more into a device than they actually did, sure.
24 Q. Okay. And what is the slot technician's role in those
25 types of disputes?

1 A. They would definitely be the one to investigate it,
2 especially if it were something like a power outage or
3 something. That's usually when we get a big claim, and
4 they'd be the ones to look at it to find out if it's true or
5 not.
6 Q. And when you say look at it, what do you -- what does
7 that entail?
8 A. They would have to go through the history of the
9 machine, investigate to find out what was the last bill or
10 ticket put into it, what the amount should be based on the
11 betting pattern for any kind of issues that the machine may
12 have had.
13 Q. And earlier you mentioned easy pay or TITO tickets. Are
14 there instances in which guests may try to cheat the Company
15 with respect to those?
16 A. Yes.
17 Q. And how might they do that?
18 A. A TITO ticket works very similar to cash if you will.
19 It's validated by the machine. So guests have been known to
20 photocopy TITO tickets, or they will steal another person's
21 TITO ticket. There's multiple different ways that you can
22 try to counterfeit them or to forge them just as much as you
23 would cash.
24 Q. Okay. And what is the slot technician's role in
25 resolving a dispute concerning TITO tickets or easy pay

1 vouchers?
2 A. Right off the bat, if there's any issue with the
3 voucher, as far as it coming out of the machine in the first
4 place or whether it's truly a valid ticket, they would be
5 able to look at the machine and go through every aspect of
6 that to find out if the ticket is valid, if it's warranted
7 or if there was an issue.
8 Q. When you say look at the machine, again, what do you
9 mean?
10 A. I apologize. They would be able to review the history
11 of the machine, go through the settings, review the meters
12 to find out if the ticket is truly valid.
13 Q. Okay. Does Palace Station receive new slot machines
14 from time to time?
15 A. We do.
16 Q. What are the slot tech's duties with regard to the new
17 machines?
18 A. Traditionally a slot technician will install the locks.
19 They will make sure they install the player tracking. They
20 will review all the settings that are done by the
21 manufacturer, if those are set up, including pay lines,
22 wagers bet. They will test the games and report the
23 findings back, if there's any issues.
24 Q. Okay. And, again, just for the reader who may not be
25 familiar with your terminology, when you say payout for

1 signature, payout line, what do you mean by that?
2 A. Each game or most games, I should say, come with
3 variable theoretical payback percentages that can be chosen
4 based on gaming regulations. So you can choose to use a
5 higher or a lower hold percentage, and making sure the
6 correct hold percentage is crucial.
7 Q. And does it actually occur that machine settings are
8 sometimes incorrect?
9 A. Absolutely.
10 Q. Okay. And it sounds obvious, but what are the potential
11 consequences of the Company if the technician fails to
12 properly verify the machine settings?
13 A. I mean if the game settings are not done correctly,
14 based on the denomination of the machine, the impact could
15 be astronomical if it were a 2 percent gain versus a 10
16 percent gain. And what I mean by -- I apologize. The
17 percentage is the return of value to a player, and then
18 whole percentage is what we will gain.
19 Q. So just to make it a little more clear, so if it was a 2
20 percent hold percentage, on average, if a guest played $100,
21 the casino would expect to retain $2 and payback 98.
22 A. On average over the course of many expenses.
23 Q. Okay. And if it was a 10 percent hold, then the casino
24 would make 5 times as much money?
25 A. Yes.

1 Q. And what are they?
2 A. These are the games that are losing for 4 consecutive
3 days. It's 2 separate days of them.
4 Q. Okay. And that's a report of the games?
5 A. Yeah, the report is emailed to us daily or every other
6 day, and it indicates any time there's a machine that's
7 consecutively losing on too many days.
8 Q. Okay. And is that a true and correct copy of the
9 document?
10 A. It is.
11 MR. HARLOW: We move to admit it as Employer's Exhibit
12 3.
13 MR. STERN: No objection.
14 HEARING OFFICER KOPSTEIN: Okay. Employer's Exhibit 3
15 is received.
16 **(Employer's Exhibit 3 received in evidence.)**
17 Q. BY MR. HARLOW: And who is that document emailed to?
18 A. It's emailed to all the directors for each property.
19 Q. Okay. Does that include you?
20 A. Yes.
21 Q. Okay. And what do you do upon receipt of this
22 information?
23 A. We'll review the games on there to find out if anything
24 looks suspicious, or we'll go through -- I'll go through
25 specific information, any kind of history on the game, to

1 find out if there's any true issue. Sometimes the games
2 haven't been on the floor long enough. And so it's
3 difficult to get a read on whether it's truly losing or not.
4 But if I do notice any kind of an issue or a problem, I
5 would ask a slot technician to check the game.
6 Q. And so what does the slot technician do in the process?
7 A. Traditionally, if I ask him to check the game, it would
8 be to check it against the actual settings of what the game
9 should be. So does it have the correct denomination? Does
10 it have the direct accounting denomination? Is the game
11 working the way it's supposed to be? And then to bring that
12 information back to us and let us know why the game might be
13 losing.
14 Q. Okay. And what would you do if the machine turned out
15 to be incorrectly set or if the slot technician found a
16 problem?
17 A. Well, we'd have to make sure that it was set up
18 correctly, that whatever the error was, it would be fixed.
19 Q. Okay. Is there a potential for guests or other
20 employees to physically tamper with a slot machine?
21 A. Yes.
22 Q. How so?
23 A. A guest could try to pry up on the door, to break a lock
24 or try and gain access physically if they wanted to.
25 Q. Okay. And how much money is actually physically

1 contained in the machine?
2 A. It would really be based upon what the guest deposits
3 into it, but each cash can holds about 1,000 notes or up to
4 1,000 notes. So it could be probably anywhere from 20 to
5 100,000, depending on what's in it or what machine it is.
6 Q. And how are technicians able to physically access the
7 machines?
8 A. Slot technicians have keys for all the machines.
9 Q. And if a technician were to lose that key or to use it
10 dishonestly, what would the consequences of the Company be?
11 MR. STERN: Objection. Calls for speculation. Has
12 anyone ever lost a key?
13 HEARING OFFICER KOPSTEIN: Do you want to --
14 MR. HARLOW: It's a hypothetical question.
15 MR. STERN: Hypothetical or not. Based on the facts in
16 the case, it irrelevant. It calls for speculation. There's
17 no foundation. He's being asked to speculate. We don't
18 know if it's ever happened.
19 HEARING OFFICER KOPSTEIN: Has anyone ever lost a key?
20 I'll allow him to answer the question.
21 Q. BY MR. HARLOW: Answer my question.
22 HEARING OFFICER KOPSTEIN: Answer the question.
23 THE WITNESS: Okay.
24 Q. BY MR. HARLOW: You can answer.
25 A. We do have rules specifically designed for if a key is

1 to be lost, that we have policies and procedures that are
2 set in place specifically if that were to happen, which
3 would cause us to have to change out the actual lock itself
4 if it were to be lost, if you will. I think above that,
5 they have access to the machine. If they wanted to take
6 advantage of it, slot technicians truly know and understand
7 the machine better than anyone else.
8 MR. STERN: I'm going to move to strike. The question
9 was what would happen if a slot tech lost a key, and he's
10 saying what would happen if he was dishonest and used it
11 dishonestly. Totally unresponsive. Totally.
12 MR. HARLOW: That actually was my question. I said --
13 MR. STERN: I'm sorry. I take it all back. I was
14 wrong.
15 HEARING OFFICER KOPSTEIN: Okay.
16 MR. STERN: I misunderstood the question.
17 **(Employer's Exhibit 4 marked for identification.)**
18 Q. BY MR. HARLOW: I'm going to show you a document we'll
19 mark as Employer's 4. Do you recognize the document?
20 A. I do.
21 Q. And what is it?
22 A. This is a slot machine access key. The document
23 identifies the machine's keys that they use.
24 Q. Okay. And is this a true and correct copy of the
25 document?

1 HEARING OFFICER KOPSTEIN: So will we get a copy of the
2 complete document? And we can admit that into evidence.
3 MR. HARLOW: Sure. We'll arrange to have copies printed
4 up.
5 HEARING OFFICER KOPSTEIN: Does that satisfy you,
6 Mr. Stern?
7 MR. STERN: Yes, sir.
8 HEARING OFFICER KOPSTEIN: Okay. With that caveat,
9 Employer's 4 is received.
10 **(Employer's Exhibit 4 received in evidence.)**
11 MR. HARLOW: Can we go off the record for a minute?
12 **HEARING OFFICER KOPSTEIN: Okay. Off the record.**
13 **(Off the record from 11:48 a.m. to 11:58 a.m.)**
14 **HEARING OFFICER KOPSTEIN: We're on.**
15 MR. HARLOW: So subject to that, is Employer's 4
16 admitted?
17 HEARING OFFICER KOPSTEIN: Employer's 4 is admitted.
18 **DIRECT EXAMINATION (cont.)**
19 Q. BY MR. HARLOW: Do the technicians have any interaction
20 with the Nevada Gaming Commission?
21 A. Yes.
22 Q. How so?
23 A. Traditionally, if there's a problem with the slot
24 machine, the slot technician will be the one to investigate
25 any kind of issue with the machine, and if the Gaming

1 Control Board is called on the game -- anything over $500
2 automatically mandates that the Gaming Control Board is
3 called. Then they'll request to look at the machine, and
4 then almost every time the slot technician will be right
5 there with them to make sure that they can help them through
6 the process or any bit of it. They're also almost always
7 the first one to write out the statement for any kind of
8 issue with the machine.
9 Q. Okay. Does Station Casinos have a policy against
10 underage gaming?
11 A. We do.
12 Q. Okay. And what are the technicians' responsibilities
13 with respect to underage gaming?
14 A. It's the slot technician's responsibility to either stop
15 it or to record it immediately.
16 Q. Okay. And report it to who?
17 A. Report it to a security officer or report it to a
18 supervisor, to go there and stop underage gaming directly.
19 Q. And why is it important to the Company to protect
20 against underage gaming?
21 A. Because the Company can be fined for it. The team
22 members can be fined for it. You can lose your license for
23 underage gaming.
24 Q. Okay. Does Station Casinos also have a policy against
25 underage drinking?

1 A. They do.
2 Q. And what role, if any, do slot technicians play in
3 underage drinking?
4 A. I think it will mirror the same policy because their
5 proximity to the casino floor, because of the proximity of
6 the guests, that they would be expected to definitely stop
7 it or report it immediately.
8 Q. Are slot technicians provided with the identities of
9 known slot machine cheaters?
10 A. Yes.
11 Q. Why is that?
12 A. Because they can identify them. A lot of times, it will
13 be posted somewhere.
14 Q. I might have touched on this before, but are slot
15 technicians allowed to gamble on Station Casinos'
16 properties?
17 A. No.
18 Q. And why is that?
19 A. Because they have access to the internals of the machine
20 that can actually affect the outcome of the game.
21 Q. Okay. Is this different from other hourly employees?
22 A. It is.
23 **(Employer's Exhibit 5 marked for identification.)**
24 Q. BY MR. HARLOW: I'm going to show you a document that
25 we've marked as Employer's 5, and it's going to have the

1 same issue with the full slot manual.

2 MR. STERN: I'll stip this is one of the reports to be

3 in, and it may be admitted, subject to my objection for the

4 whole document.

5 HEARING OFFICER KOPSTEIN: Employer?

6 MR. HARLOW: It's fine with me. All I was going to ask

7 him to do was authenticate it.

8 HEARING OFFICER KOPSTEIN: Okay. Employer's 5 is

9 received subject to that understanding.

10 **(Employer's Exhibit 5 received in evidence.)**

11 Q. BY MR. HARLOW: If another slot tech was suspected of

12 manipulating a machine, who would investigate that?

13 MR. STERN: Objection. Calls for speculation.

14 Hypothetical not based on a fact in the case, and no

15 foundation that it's ever happened.

16 MR. HARLOW: It's a hypothetical.

17 HEARING OFFICER KOPSTEIN: Objection is overruled.

18 THE WITNESS: If there were an issue or that were to

19 happen on a machine or someone would alter the game in any

20 way, traditionally I would imagine that the slot technician

21 or another slot technician would be the one to investigate

22 the problem to find out if there were an issue with it.

23 Q. BY MR. HARLOW: And why do you say that?

24 A. Because they're the ones that we use to program the

25 machines and to check it out. So if something were done

1 inappropriately to a slot machine, if a system would flag
2 it, whether it's an accounting issue or anything like that,
3 our first order of business, if you will, is to have the
4 slot technician help look at it and find out if it's set
5 correctly and if there's any problems with it, and then get
6 it fixed. If we find that it was something that was done
7 inappropriately, then it would probably be investigated a
8 little bit further.
9 Q. I'm going to show you two documents that we'll mark as
10 Employer's 6 and 7.
11 **(Employer's Exhibits 6 and 7 marked for identification.)**
12 HEARING OFFICER KOPSTEIN: I've been handed 6?
13 MR. HARLOW: You know, we'll mark that one 6 and then
14 the other one is just substantively -- I'll mark this one 7.
15 Q. BY MR. HARLOW: Do you recognize these documents?
16 A. I do.
17 Q. Are these true and correct copies?
18 A. They are.
19 MR. HARLOW: We would move for the admission of
20 Employer's 6 and 7.
21 HEARING OFFICER KOPSTEIN: Any objection?
22 MR. STERN: No objection.
23 HEARING OFFICER KOPSTEIN: Employer's 6 and 7 are
24 received into evidence.
25 **(Employer's Exhibits 6 and 7 received in evidence.)**

1 Gaming Board?
2 A. How often do we have those?
3 Q. Yes.
4 A. I'm going to say on average -- once a week is too much.
5 Maybe about three times a month. It could be more, less,
6 really depending on volume.
7 Q. And the slot technicians do not have the authority on
8 their own to resolve a complaint, correct?
9 A. No, the slot technician is the professional for the
10 machine itself. They research and investigate the issue,
11 and they report their findings directly to the supervisor
12 who then makes the decision.
13 Q. Thank you, sir.
14 MR. STERN: Nothing further.
15 **HEARING OFFICER KOPSTEIN: Go off the record for one**
16 **second.**
17 **(Off the record at 12:20 p.m.)**
18 HEARING OFFICER KOPSTEIN: All right. Mr. Orosco, I'm
19 just going to ask a few questions of my own here.
20 You testified that security officers wear a special
21 uniform, right?
22 THE WITNESS: Yes.
23 HEARING OFFICER KOPSTEIN: What -- do the slot
24 technicians or utility technicians wear a uniform?
25 THE WITNESS: To be honest with you, I don't recall

1 technicians have any access to the surveillance room?
2 THE WITNESS: No.
3 HEARING OFFICER KOPSTEIN: Okay. Do the security
4 officers make rounds at the premises?
5 THE WITNESS: Yes.
6 HEARING OFFICER KOPSTEIN: Do you know if the
7 surveillance -- pardon me.
8 Do the slot technicians and utility technicians make
9 rounds?
10 THE WITNESS: They do. It's something we request that
11 they keep an eye on the floor, make sure that they look for
12 any kind of issue. Yeah, traditionally they'll get a call
13 for a problem, but will they walk the floor to see if
14 there's an issue? Absolutely.
15 HEARING OFFICER KOPSTEIN: According to a set schedule
16 or --
17 THE WITNESS: No, no, nothing on a set schedule at all.
18 HEARING OFFICER KOPSTEIN: So they have to be asked to
19 do that?
20 THE WITNESS: Yeah.
21 HEARING OFFICER KOPSTEIN: Okay. And you testified that
22 they look out for people cheating or suspected cheaters?
23 THE WITNESS: They can be observant of it. I think the
24 primary responsibility of a slot technician, especially as
25 it relates to any kind of a cheating, is to be the

1 professional on the device specifically, to sit here and say
2 that they can do the research on the device. They know and
3 understand if there's any kind of tampering on the device.
4 As far as cheating, whether -- it's an older device,
5 like a string and coin, if you will, to something even far
6 more sophisticated like devices that they sell online, if
7 you will, eBay, EMPs, things like that. So absolutely, I
8 think they would be the ones to look out for something in
9 particular, especially if it's found inside the machine,
10 because most people who go inside the slot machine don't
11 know or understand the parts that are in there. So they
12 wouldn't know if something was foreign.
13 HEARING OFFICER KOPSTEIN: If you know, if a blackjack
14 dealer saw someone counting cards, would they be expected to
15 report that?
16 THE WITNESS: I would assume they would. I don't know
17 what training they have on counting cards. I know the
18 supervisors receive that training specifically, but I don't
19 know about the dealers specifically.
20 HEARING OFFICER KOPSTEIN: Do the slot technicians have
21 any sort of specialized training or certification for their
22 jobs?
23 THE WITNESS: I can't personally speak to our slot
24 technicians because I haven't gone through files to see if
25 they have specialized training for it. But I do know that

1 there are very specific things inside the machine that you
2 have to have training for in order to know and understand,
3 whether it was a mentor training where someone showed you
4 specifically or if you went to a class to learn how to do
5 it. There are devices. There are equipment that are inside
6 of it that I don't believe 99 percent of the population of
7 the casino would know or understand what it is, if that
8 makes sense.
9 HEARING OFFICER KOPSTEIN: Okay. If there is a physical
10 altercation on the casino floor that the slot technicians or
11 the utility technicians observe, what would they be expected
12 to do?
13 THE WITNESS: I wouldn't believe they would get involved
14 in a physical altercation on the casino floor. The
15 expectation, I believe, would be to notify someone to let
16 them know that there was a problem going on.
17 HEARING OFFICER KOPSTEIN: Notify someone. Do you know
18 which someone?
19 THE WITNESS: Most likely a security officer or a
20 supervisor.
21 HEARING OFFICER KOPSTEIN: Okay. Do you know who
22 supervises the security officers?
23 THE WITNESS: I believe they have a chief or they have a
24 supervisor of their own.
25 HEARING OFFICER KOPSTEIN: Part of the security

1 department?

2 THE WITNESS: Yeah, part of the security department.

3 HEARING OFFICER KOPSTEIN: Do the slot technicians ever

4 substitute for the security officers?

5 THE WITNESS: Only visually, if they're doing a job

6 where they're walking around on the floor. They will, you

7 know, stand watch if you will from time to time, just to

8 keep an eye on the drop if you will.

9 HEARING OFFICER KOPSTEIN: Okay. Does anybody have any

10 questions based on my questions?

11 MR. HARLOW: I have some redirect actually based on his.

12 HEARING OFFICER KOPSTEIN: I'm sorry. Redirect. This

13 will be brief.

14 **REDIRECT EXAMINATION**

15 Q. BY MR. HARLOW: You were in the process of testifying

16 that everyone is responsible for reporting gaming violations

17 or something to that effect, and you started to say,

18 "however." I just wanted to give you a chance to complete

19 your thought.

20 A. I was just saying, you know, that everyone is required

21 to notify or to say or do something about it.

22 Traditionally, if internal maintenance were to see a person

23 drinking or gambling or anything, and there was a slot close

24 by, I believe they would ask them to do something about it,

25 or they would notify them before somebody else. I don't

1 know that they would run off to find their own supervisor or
2 even to identify another security officer. I think if they
3 had seen them close by, they would ask them to do something.
4 And that being said, it doesn't mean that they would walk up
5 and physically do something. Perhaps they would report it
6 as well.
7 Q. And then we've discussed a number of ways that guests or
8 team members may try to cheat the Company. How often in one
9 way or another does it happen that a guest or team member
10 tries to cheat the Company approximately?
11 MR. STERN: Objection. Foundation.
12 HEARING OFFICER KOPSTEIN: Overruled.
13 MR. STERN: How does he know? They'd have to catch 100
14 percent of the people trying to cheat to know.
15 HEARING OFFICER KOPSTEIN: You can rephrase the
16 question.
17 Q. BY MR. HARLOW: In your experience, how many instances a
18 day are you aware of where a guest or team member attempts
19 to cheat or scam the Company?
20 A. And if I had to guess based on --
21 Q. I don't want you to guess. Just an approximation,
22 please, because it's going to change day to day. We
23 understand that.
24 A. An approximation would be based on what I actually know.
25 Q. Okay. Would you say it happens --

1 A. On a daily basis. It would happen daily, at least once
2 daily --
3 Q. Okay. Thank you.
4 A. -- if that's fair.
5 MR. HARLOW: No further questions.
6 HEARING OFFICER KOPSTEIN: Mr. Stern.
7 **RECROSS-EXAMINATION**
8 Q. BY MR. STERN: Did you testify that it's a part of the
9 slot technician's normal duties to watch a drop?
10 A. They actually --
11 Q. Did you testify to that? Yes or no.
12 A. I did.
13 Q. Can you please show me --
14 MR. STERN: Permission to approach.
15 HEARING OFFICER KOPSTEIN: Granted.
16 Q. BY MR. STERN: I'm going to hand you two job
17 descriptions that your attorney put into evidence,
18 Employer's Exhibits 6 and 7.
19 A. Okay.
20 Q. For the utility and slot technician. And it must just
21 be my bad reading. Can you show me in there where it says
22 slot technicians are responsible for observing a drop,
23 watching a drop?
24 A. I cannot.
25 Q. Okay. You also testified that slot technicians do

1 for with the accounting department and more or less an
2 independent contractor and hired to do consulting work.
3 Q. Okay. And the Gaming Commission, is that the Nevada
4 Gaming Control Board?
5 A. Yes.
6 Q. Sometimes also referred to as the NGCB?
7 A. Yes, it's a two-tiered system. We have the Nevada
8 Gaming Commission and the Nevada Gaming Control Board.
9 They're two separate entities.
10 Q. Okay. And is the Nevada Gaming Control Board, do they
11 have the authority to make arrests?
12 A. They do.
13 Q. Is it considered a state law enforcement agency?
14 A. Yes, it is.
15 Q. Okay. And what positions did you hold at the Nevada
16 Gaming Control Board?
17 A. I began with the board in February of 1995 as an
18 enforcement agent, and I was assigned to the field services
19 section, which responded to casino complaints, reports of
20 individuals that were being detained by the casino subject
21 to arrest, and subsequent to that, in 1996 I believe,
22 sometime in the late summer, I was promoted to senior agent,
23 and I was assigned to the special investigations section,
24 which did confidential investigations on major issues
25 involving licensees, specifically bookmakers and things such

1 guest attendants there at that point, and if we would need
2 any technical expertise, that's when we would summons the
3 slot technician to respond.
4 Q. Okay. And you briefly alluded to it. So what, if any,
5 role does the slot technician play in the process?
6 A. Well, they have a critical role in the process because
7 they're the only ones with access, access to the device and
8 the expertise in which to run the diagnostics of the
9 machine. Game recall, we have button tests, reel step
10 tests, reel strip tests, all of these different functions;
11 plus they can look at all the accounting information such
12 as, you know, how many bills were in the validator and which
13 sequence they were entered, all kinds of different things
14 that the machine can track.
15 Q. Okay. And in your experience, before the Gaming Control
16 Board gets involved, has the casino itself typically
17 conducted an internal investigation and reached a decision
18 as to the dispute?
19 A. Yes. Once I arrived, one of my first duties, I guess,
20 that I would use for myself is I would try to determine who
21 the individual was that made the final binding, non-payment
22 decision, speak to that individual because they then give me
23 the Company's position on the individual's complaint. So
24 then subsequent to that, then I would reverse -- kind of
25 reverse-engineer everything they done up to that point to

1 determine along the way if I agreed with all of the
2 different findings they had made before my arrival.
3 Q. Okay. And in your experience, is that -- what, if any,
4 does the slot technician have in that process?
5 MR. STERN: I'm going to object. That calls for
6 speculation. It doesn't seek probative facts. It's unknown
7 as to time. It's these sort of general questions. We don't
8 know what employer he's referring to. It's just generalized
9 testimony and has no probative value, and I object to it.
10 HEARING OFFICER KOPSTEIN: It's as to his experience, I
11 think. I'll overrule the objection, and the testimony will
12 be given the appropriate weight by the finder of fact.
13 Q. BY MR. HARLOW: You can answer.
14 A. Like I said, upon my arrival, if there was, you know,
15 written voluntary statements taken, I would review those.
16 But at the same time, I would also conduct a personal
17 interview of the patron, any other witnesses, and of course,
18 the slot technician themselves, to determine what, if
19 anything, they had done, what, if any, determinations they
20 had made, and then based on that information, I would move
21 forward and complete the investigation and agree or disagree
22 with their findings.
23 Q. Okay. And in your personal experience, what weight, if
24 any, is given to the slot technician's conclusions or
25 recommendations?

1 MR. STERN: I'm going to object. It's vague. What
2 weight is given by who?
3 HEARING OFFICER KOPSTEIN: If you could rephrase.
4 Q. BY MR. HARLOW: By the Nevada Gaming Control Board.
5 A. Me as the primary decision make, I give great deference
6 to the information that they have provided.
7 Q. And when you interact with these slot techs at the
8 property, do the slot techs act on their own accord, or are
9 they directed what to do by the Gaming Control Board?
10 MR. STERN: Objection. Calls for speculation.
11 Q. BY MR. HARLOW: In your experience.
12 A. I do not know. It's taken outside my presence. I have
13 no idea.
14 Q. No, I'm talking once you personally arrive on the scene.
15 I'm sorry, not the preceding investigation. Does that --
16 MR. STERN: I'm sorry. I'm lost in the questions.
17 THE WITNESS: Me, too.
18 HEARING OFFICER KOPSTEIN: Can you repeat the question?
19 MR. HARLOW: Sure.
20 Q. BY MR. HARLOW: You testified that you personally would
21 go out to these properties, these licensees to conduct the
22 investigation. Is that right?
23 A. Yes.
24 Q. And that you would personally interview the slot
25 technician?

1 A. Correct.
2 Q. Did the slot technician walk you through the
3 investigation of the machine?
4 A. Yes, they would.
5 Q. Okay. And would you give any directions to the slot
6 technician?
7 A. At that particular point, I would ask them specific
8 technical questions: Had they done a certain test, had they
9 looked at, you know, any certain anomalies of the particular
10 device. Case in point would be the video poker example. I
11 would have him do what we call game recall. Some machines
12 hold up to 10 to 15 games previous. So if they said the
13 fourth position hold button didn't work, I would say, okay.
14 How many in the last 15 games, show me all the games, with
15 the turn of a key or a button? Show me how many times that
16 fourth position button was employed in that particular game,
17 if they were using a game strategy. Then I would see if it
18 was used 3 out of the last 10 games. Obviously, the issue
19 with that button probably not working are obviously
20 diminished at that point.
21 Q. Does the Nevada Gaming Control Board also hear what I
22 understand are employee registration issues or employee
23 registration type disputes?
24 A. Yes. All of the employees are statutorily defined as a
25 gaming employee, have to undergo a background investigation,

1 including an application and fingerprints and so on, which
2 is separate and distinct from the one they filled out at the
3 human resources for the employer themselves. That was filed
4 with the state. Once we receive the application, we do our
5 own cursory records check. If we find that there's, based
6 on the fingerprint information or based on local records
7 checks, if there's arrest information or other let's say
8 nefarious acts associated with the person, we would then
9 assign that case to our background investigation section.
10 Once they've completed their investigation, if they decide
11 to object to that individual's employment, they're served
12 with a letter of rejection. HR is also served with a letter
13 of objection, and they have to terminate the individual as
14 an employee or transfer them to what is called a non-gaming
15 position.
16 Now, at the end of the day on that, a person then has a
17 60-day window in which to apply to me at the time for an
18 appeal hearing to reverse, modify, or sustain.
19 Q. Okay. And did you, in fact, oversee those hearings?
20 A. 2,227, I believe.
21 Q. Okay. And in your experience with those 2,227 cases,
22 what role, if any, did slot technicians play in the process?
23 A. The enforcement agent would pre-file testimony and
24 documents with me as the hearing officer. I would review
25 those documents, and most often, if it was a criminal case

1 that had involved the board as the arresting agency, then I
2 would be able to review the investigative report filed by
3 the arresting agent, and in there, I would find interviews
4 of the slot techs, written voluntary statements of slot
5 techs, and in so doing, looking at that information, not
6 only did the district attorney give great deference to it to
7 decide on a prosecution as a felony, but I would also look
8 at that and give great deference to it as well.
9 Q. And earlier you mentioned Gaming Board has the authority
10 to make arrests. Did I get that right?
11 A. It's 436.1140, powers and duties of board and commission
12 that's granted by the legislature, the power to conduct
13 arrests.
14 Q. Okay. And what rule, if any, did slot technicians play
15 in the arrest procedure?
16 A. As a specific example, I recall in some cases, when we
17 used to have what used to be coin-based games or token-based
18 games, as opposed to the TITO and cash-based games,
19 typically the slot techs would have to respond when they had
20 what we call a coin jam where you couldn't get the coins to
21 go into the coin head. There would usually be like a lead
22 slug or something stuck in it by some obvious individual who
23 was willing to cheat. Now, at that particular point, not
24 only does the slot tech play a critical role in forming, you
25 know, the probably cause to effect an arrest, if the

1 individual was detained, but they would also find themselves
2 in the chain of custody for the evidence because once
3 they've opened up the device and take the slugs out of the
4 coin hopper, as it was called, and then release that to the
5 agent, then they would find themselves in the chain of
6 custody.
7 MR. HARLOW: No further questions.
8 **CROSS-EXAMINATION**
9 Q. BY MR. STERN: What percentage of time do slot
10 technicians at Palace Station deal with the Gaming Control
11 Board? What percentage of an average week? Do you know?
12 A. My goodness. I have no idea. I've been a field agent
13 since 1997.
14 Q. I'll settle for I have no idea. Did -- when's the last
15 time you investigated any case at the Palace Station, if
16 ever?
17 A. Oh, if ever. Several times.
18 Q. When's the last time?
19 A. 19 -- probably 1997, when I was a supervisor.
20 Q. 1997 they still used coins in slot machines, correct?
21 A. Coins and tokens.
22 Q. That's not the case any more though, is it?
23 A. No, with the advent of the machines being evolved,
24 obviously, they've gone to the cash-based systems and the
25 TITO tickets.

Exhibit D

SLOT TECHNICAL TEAM POLICY 22

SUBJECT: **JACKPOT VERIFICATIONS**

PURPOSE: **To establish Slot Technical Team policy concerning the verification of Jackpots.**

POLICY:

22.1 The Slot Technical personnel are responsible to provide Jackpot verification at any time requested to do so by Slot Shift Manager. Jackpot verifications will include, at a minimum, verification that a jackpot condition exists on the machine, verification of the accuracy of the jackpot amount reported by the Game Program and verification that the integrity of the machine and the Game Processor have not been violated. If requested to do so, Slot Technical personnel will verify the electronic signature of the Game Program (ie; Kobetron/Dataman signature) with manufacturer or recoded data. In the event the Slot Technical personnel who is performing the jackpot verification determines or believes the jackpot is not valid, the Slot Shift Manager on duty will be advised. Under no circumstances will the Slot Technical personnel performing the jackpot verification express a judgment or opinion concerning the validity of a jackpot claim in the presence of a Guest.

22.2 Slot Technical personnel will, without exception, provide jackpot verification for all jackpot awards of $100,000.00 or greater. Such verification will be performed as detailed in paragraph 22.1 above with the addition that verification of the electronic signature of the Game Program (Kobetron/Dataman signature) must be performed and documented using a EPROM Verification Data Sheet.

ER 1

IGT

CN: 5226 Rev: C_M

MANDATORY NOTICE

MANDATORY SOFTWARE CUSTOMER NOTIFICATION

SUBJECT:	WATP and Round Wager Playoff Replacement	DATE:	03 Apr 2017
PRODUCT:	Ascent	GAME TYPE:	Below

IGT releases products and modifications based on jurisdictional approvals received. The only area(s) authorized to incorporate change(s) in this notification are listed in the "Released Area(s)" field. The "Unreleased Area(s)" field indicates areas for which the replacements are pending development, submittal, or approval. In no circumstance can this modification be implemented in any other jurisdiction until approvals are received.

REASON FOR CN REVISION:
Revision C_M – 03 Apr 2017: Released GI020001M3DT003 and GI020003M3FT004 for use in NV.

SYMPTOM(S):
As reported on CN5223 or CN5224, the Weighted Average Theoretical Payback (WATP) may not have been calculated correctly when the Round Wager Playoff Feature was enabled. All aspects of game plays, payments, and revenue accounting are unaffected.

ATTENTION: IGT will provide up to two USB flash drives per property free of charge for 3 MONTHS from the jurisdiction release date on this CN. However, IGT recommends that all customers observe the replacement time frames required by their regulatory agency.

OLD PROGRAM	NEW PROGRAM	CRC32	UNRELEASED AREA(S)	RELEASED AREA(S)
Northern Fortunes FG 5R50L CMB		204B5601	N/A	NJ, NV
GAME020001M3DT02	GAME020001M3DT03			
Installation media: GI020001M3DT002	Installation media: GI020001M3DT003			
Icy Wilds FG 5R50L CMB		328241CA	IL	NV
GAME020001M3FT03	GAME020001M3FT04			
Installation media: GI020001M3FT003	Installation media: GI020001M3FT004			

For additional information, contact your IGT representative. For Customer Notifications, PAR sheets and Program Summary Reports online, visit the IGT Support website at IGT.com/support.

ER 2

OLD PROGRAM	NEW PROGRAM	CRC32	UNRELEASED AREA(S)	RELEASED AREA(S)
1421 Voyages of Zheng He FG 5R88L CMB GAME020001M3JS01 Installation media: GI020001M3JS001	 GAME020001M3JS04 Installation media: GI020001M3JS004	N/A	IL	N/A
King of Macedonia FG 5R40L CMB GAME020001M3MS02 Installation media: GI020001M3MS002	 GAME020001M3MS05 Installation media: GI020001M3MS005	N/A	IL	N/A

For additional information, contact your IGT representative. For Customer Notifications, PAR sheets and Program Summary Reports online, visit the IGT Support website at IGT.com/support.

SLOT TECHNICAL TEAM POLICY 8

SUBJECT: SLOT MACHINE ACCESS KEYS

PURPOSE: **To establish Slot Technical Team policy concerning issuance and control of Slot Machine Door Keys.**

POLICY:

8.1 Slot Technical personnel who require access into Gaming Machines will, as appropriate, obtain Slot Machine Door Keys from the designated issuing authority in accordance with procedures established by that authority.

8.2 Slot Department personnel, once in possession of Slot Machine Door Keys are responsible for the security, control, care, use and maintenance of said keys until surrendered back to the issuing authority.

8.3 Slot Technical personnel are responsible to insure that Slot Machine Door Keys once obtained, are identified correctly, contain the correct number and type of keys and that keys are serviceable. Unusable keys must be immediately exchanged with the Shift Manager or Lead on Duty.

8.4 Slot Machine Door Keys may not be removed from the casino property without prior approval from either the Tech Manager or Slot Director.

8.5 Slot Machine Door Keys may not be loaned to other Team Members and must remain in the possession of the individual to whom issued until duly turned-in to the issuing authority.

8.6 Loss of Slot Machine Door Keys will be considered a most serious violation of Department and Station Casinos, Inc. policy and will result in disciplinary action that may include immediate termination.

ER 4

SLOT TECHNICAL TEAM POLICY 13

SUBJECT: **GAMING BY TEAM MEMBERS**

PURPOSE: **To establish Slot Technical Team policy concerning Gaming by Slot Technical personnel.**

POLICY:

13.1 Slot Technical personnel are prohibited from play on table games at the property where he/she is employed. Play on live poker is allowed at all properties, including the property they are employed at.

13.2 Slot Technical personnel are prohibited from playing Slot Gaming Devices at the property where he/she is employed as well as any other Station Casinos, Inc. property.

13.3 Slot Technical personnel may place Race & Sports Book wagers. Race & Sports Book wagers may also be placed by Slot Technical Department personnel while on duty and in uniform, but only during authorized breaks.

13.4 Slot Technical personnel may not place a wager for another person and may not have another person place a wager for him/her.

13.5 Slot Technical personnel are required to sign and acknowledgment of The Station Casinos, Inc. Gambling Policy.

ER 5

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NP PALACE, LLC **and** **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO,**	**Case No. 28-RC-211644**

PETITIONER'S OPPOSITION TO EMPLOYER'S REQUEST FOR REVIEW OF THE REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION AND CERTIFICATION OF REPRESENTATIVE

THE MYERS LAW GROUP, A.P.C.
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9327 Fairway View Place, Suite 100
Rancho Cucamonga, CA 91730
Telephone: (909) 919-2027
Facsimile: (888) 375-2102

Exhibit 11

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NP PALACE, LLC **and** **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO,**	**Case No. 28-RC-211644**

PETITIONER'S OPPOSITION TO EMPLOYER'S REQUEST FOR REVIEW OF THE REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION AND CERTIFICATION OF REPRESENTATIVE

Pursuant to Section 102.67(f) of the NLRB Rules and Regulations, Petitioner hereby provides its Opposition to Employer's Request for Review of the Regional Director's Decision and Direction of Election and Certification of Representative, as follows:

I. INTRODUCTION

Employer's contentions and unsustainably broad reading of Section 9(b)(3) and *Bellagio, LLC v. NLRB* (D.C. Cir. 2017) 863 F.3d 839 would lead to all employees being classified as "guards" pursuant to Section 9(b)(3) as *all* employees, in some manner, are tasked to protect the property of the employer, especially those that work in an "ultramodern luxury casino."

In support of its Request, the Employer argues that the Regional Director's conclusion that the numerous differences between the instant employees and the employees in *Bellagio* are clearly erroneous. The Employer's untenable expansion of the "Guard" designation stretches to include a general duty to report a crime being committed, such as underage drinking, as

somehow equating to the duties of a "guard." In fact, if the Employer's argument was sustained, bartender's and cocktail waitresses would find themselves labeled as "guards."

The Employer's belief that *Boeing* should be overturned and that all other precedence should be used in its place is simply improper in this context. The Employer's task is to show that the Regional Director's decision was clearly erroneous, and the Employer has fallen woefully short to meet its burden.

As such, the Board should refuse the Employer's Request for Review and make the Regional Director's actions final.

II. LEGAL ARGUMENT

The Employer alleges that review should be granted because the decision of the regional director departs from officially-reported board precedent, the decision relies on clearly erroneous and prejudicial factual determinations, and the Region committed prejudicial error. The Employer argues that the regional director should not have relied on *Boeing Co.,* 328 N.L.R.B 128 (1999) because that "precedent is simply wrong, inconsistent with the plain language of the act, conflicts with better-reasoned board and federal case law, and should be overturned." Notably, *Boeing* has not been overturned and this is an improper forum in which to make such a request.

A request for review may be granted only upon one or more of the following four grounds: (1) a substantial question of law or policy is raised because of the absence of, or departure from, officially-reported board precedent; (2) the regional director's decision on a substantial factual issue is **clearly erroneous** on the record and such error prejudicially affects the rights of the party; (3) the conduct of any hearing or ruling made in connection with the proceeding has resulted in prejudicial error; or (4) there are compelling reasons for

reconsideration of an important board rule or policy. 29 C.F.R. § 102.67(d).

The Employer admits that its request for review on the first ground is untenable because the Regional Director adhered to the Board precedent of *Boeing,* as stated above. Nevertheless, the Employer asks the Board to ignore the most recent Board Precedent relied on by the Region for the various reasons stated by the Employer, namely, that the Employer disagrees with the Board Precedent. Thus, the Employer may not be granted review on the first ground because it admits that the Board did adhere to Board Precedent.

The Employer also does not raise issues of the third or fourth grounds in which the review may be granted. Therefore, the Employer seems to only be seeking review on the second ground alleging that the Regional Director's decision on a substantial factual issue was clearly erroneous and prejudicially affects the rights of the Employer.

A. THE EMPLOYER CANNOT SHOW THAT THE REGIONAL DIRECTOR'S CONCLUSION WAS CLEARLY ERRONEOUS

Review under the clearly erroneous standard is significantly deferential, requiring a "definite and firm conviction that a mistake has been committed." *See Easley v. Cromartie,* 532 U.S. 234, 242 (2001); *Fisher v. Tucson Unified Sch. Dist.*, 652 F.3d 1131, 1136 (9th Cir. 2011); *United States v. Comprehensive Drug Testing, Inc.*, 621 F.3d 1162, 1175 (9th Cir. 2010) (en banc) (per curiam); *see also Miller v. Thane Int'l, Inc.*, 519 F.3d 879, 888 (9th Cir. 2008) (concluding the district court clearly erred). If the district court's account of the evidence is plausible in light of the entire record, the court of appeals may not reverse, even if it would have weighed the evidence differently. *See Husain v. Olympic Airways*, 316 F.3d 829, 835 (9th Cir. 2002); *see also United States v. McCarty*, 648 F.3d 820, 824 (9th Cir. 2011); *Katie A., ex. Rel. Ludin v. Los Angeles County*, 481 F.3d 1150, 1155 (9th Cir. 2007). "Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly

erroneous." *United States v. Elliott*, 322 F.3d 710, 715 (9th Cir. 2003); *see also United States v. Stanley*, 653 F.3d 946, 952 (9th Cir. 2011); *United States v. Al Nasser*, 555 F.3d 722, 727 (9th Cir. 2009).

In other words, the Employer must show that there was only one reasonable decision that the Regional Director could come to, otherwise, the decision is not clearly erroneous.

B. THE REGIONAL DIRECTOR MADE A FACTUAL DETERMINATION BASED ON THE EVIDENCE THAT WAS REASONABLE

The Employer bases its argument on *Bellagio, LLC v. N.L.R.B.*, 863 F.3d 839, 848-49 (D.C. Cir. 2017), in which the court held that casino surveillance technicians were "guards" under Section 9(b) of the act. The *Bellagio* court stated that "whether specific employees are guards 'can be answered only by carefully examining their duties.'" *Bellagio, LLC*, supra, 863 F.3d at 842. The *Bellagio* court did the factual analysis and held that the regional director should have given more weight to the evidence that surveillance and security officers cannot do their job without the techs, the regional director did not give enough weight to the setting, the board did not give enough weight to the fact that the techs control what information is provided to investigators, and that the techs conduct special operations involving active investigations against coworkers. *Id.* at 850-52. However, in dissent, the judge stated that he would "sustain the Board's conclusion that employees who lack [duties encompassing observing, reporting, or restraining infractions] do not 'enforce rules' and thus do not qualify as statutory guards." *Id.* at 853.[1]

The Employer provides a list of different tasks that would require the Board to find the instant employees to be "guards" under the Act. Calling the Employer's assertions a "stretch"

[1] Petitioner merely mentions the dissent to illustrate the deference that should be given the Regional Director's factual analysis, unlike the Employer mentioning the dissent in an effort to overturn *Boeing*. Request at p. 7.

would be putting it lightly. The Employer's job duty assertions read like the resume of a job seeker who has embellished his duties to impress the potential employer.

The Employer states that the technicians do several tasks that would require the Board to identify them as Guards under the Act. The employer first stated that the technicians:

> "Protect the employer from fraudulent claims by enforcing the employer's procedures to verify payouts. Indeed, the decision of the employer on whether to pay out a jackpot *always* follows the investigation and recommendations of the technicians."

Initially, the witness testified that the technicians "research" the machine by making sure that it is mechanically and electronically working properly. The technician then would inform the supervisor of any issues with the machine and the supervisor then makes the decision of how to handle the situation. (Employer's Exh. 3, at 17:14-18:18.) The Employer's statement that the supervisor *always* follows the technician's recommendation is somewhat misleading. The witness stated that the slot supervisor might decide to go on a different route or take care of the guest based on service expectations, but that the slot technician's role in determining whether the machine is working properly is conclusive. (Employer's Exh. 3, at 22:4 – 12.)

In an instance in which a guest is trying to cheat the machines, the technician looks into the machine to see if there is anything jammed and reviews the history of the machine. In other words, the technician conducts maintenance on the machine to determine if the machine is working properly. (Employer's Exh. 3, at 21:18 – 24.) In an instance in which the technician investigates cheating alleged on traditional slots, the technician, no surprise, goes into the machine and determines whether there is a maintenance issue. (Employer's Exh. 3, at 23:2 – 6.)

In an instance in which the company receives a mandatory notice from IGT, the technicians then install the software required, in other words, conduct maintenance. (Employer's Exh. 3, at 26:8 – 27:17.) In an instance in which a guest says they are owed extra

credits, the technician goes through the history of the machine, investigates what the last bill or ticket was put into it, and would determine the amount that should be paid based on the betting pattern for the machine. (Employer's Exh. 3, at 27:18 – 29:12.) When a new machine comes in, the slot technician's duties involve installing locks, installing player tracking, and reviewing the settings for the new machine. In other words, the technicians set up the machine by conducting maintenance. (Employer's Exh. 3, at 29:16 – 30:25.) The witness also stated that if he notices any kind of issue or problem he would ask a slot technician to check the game. (Employer's Exh. 3, at 33:4 – 5.)

The employer played up the issue of the technician's involvement with the Nevada Gaming Commission even though all the technicians are required to do is investigate any kind of issues that might be occurring with the machine. In other words, making sure it is working properly. (Employer's Exh. 3, at 37:19 – 38:8.)

The employer tries to illustrate the slot technician's "guard" *bona fides* by stating that they are responsible for stopping or reporting underage gaming and underage drinking. (Employer's Exh. 3, at 38:9 – 39:7.) Obviously, these duties are endemic for any individual that works in a casino. Certainly, the Board will not determine that bartenders are also guards under the Act, which is what the employer's reading of *Bellagio* would lead to. In fact, Hearing Officer Kopstein asked if a blackjack dealer was required to report someone they suspected that was counting cards, and the witness agreed that they would need to. (Employer's Exh. 3, at 57:13-19.) This statement is akin to those of underage gaming and underage drinking in that in no way would a blackjack dealer be determined to be a guard under the Act. Nor should a slot technician be considered a guard under the Act merely because he or she has a duty to notify someone if he suspects there is underage gaming or underage drinking going on.

The Regional Director provided a factual analysis of the duties of the instant employees. The Regional Director also discussed *Bellagio* and determined that the only similarity between the employees in *Bellagio* and the instant matter are that they both work in a casino. Indeed, the Employer's request and proposed outcome would result in an irresponsible broadening of the "guard" definition in Section 9(b)(3).

III. CONCLUSION

Based on the foregoing, Petitioner respectfully requests that the Board refuse the Employer's Request for Review and make the Regional Director's actions final.

Respectfully submitted,

MYERS LAW GROUP, APC

Date: January 31, 2018

Adam N. Stern, Esq.
Justin M. Crane, Esq.
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I am employed in the office of a member of the bar of the State of California at whose direction this service was made. I am over the age of 18 and not a party to the within action; my business address is 9327 Fairway View Place, Suite 100, Rancho Cucamonga, CA 91730.

On January 31, 2018, I served the foregoing document described as **PETITIONER'S OPPOSITION TO EMPLOYER'S REQUEST FOR REVIEW OF THE REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION AND CERTIFICATION OF REPRESENTATIVE** by serving interested parties in this action, addressed as follows:

Harriet Lipkin, Esq.
DLA PIPER, LLP
500 Eighth Street NW
Washington, DC 20004
e-mail: harriet.lipkin@dlapiper.com

Kevin Harlow, Esq.
DLA PIPER, LLP
401 B Street
San Diego, CA 92101
e-mail: kevin.harlow@dlapiper.com

I am "readily familiar" with the firm's practice of services of process. Under that practice, this document would be deposited:

(BY EMAIL) I caused the document(s) to be sent to the person(s) at the electronic address(es) listed above. I did not receive any electronic message or indication that the transmission was unsuccessful.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 23, 2018 at Rancho Cucamonga, California.

Justin M. Crane

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

NP PALACE LLC
Employer

and

Case 28-RC-211644

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO
Union

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.[1]

MARK GASTON PEARCE, MEMBER

LAUREN McFERRAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

Dated, Washington, D.C., April 12, 2018.

[1] In denying review, we agree with the Regional Director that the D.C. Circuit's decision in *Bellagio, LLC v. NLRB*, 863 F.3d 839 (D.C. Cir. 2017), is distinguishable. Unlike the employees at issue in *Bellagio*, the technicians in the present case play no special role in enforcing the Employer's rules against their coworkers and other persons beyond that of any other employee, do not control access to the Employer's surveillance technology or play a key role in its use, and do not otherwise enforce the Employer's rules in a security context. Instead, the technicians merely provide a defined, supportive role to investigators or state gaming agents through technical assistance at the request of the slot supervisors. In this respect, we reject the Employer's argument that the court's decision in *Bellagio* dispensed with the requirement that guards act to enforce the Employer's rules in a security context. Last, we observe that the technicians are part of the Employer's Slot Department, whose core function is to install and maintain the Employer's gaming machines, not the Employer's separate Security Department, which provides traditional guard services and otherwise handles the Employer's security needs.

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
28-CA-218622	April 18, 2018

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer NP Palace LLC d/b/a Palace Station Hotel & Casino		b. Tel. No. (702)367-2463 c. Cell No. (702)432-7777
d. Address (street, city, state ZIP code) 2411 West Sahara Avenue, Las Vegas, NV 89102-4377	e. Employer Representative Scott Nelson General Manager	f. Fax No. (702)367-6138 g. e-Mail snelson@stationcasinos.com h. Dispute Location (City and State) Las Vegas, NV
i. Type of Establishment (factory, nursing home, hotel) Hotel Casino	j. Principal Product or Service Lodging, gaming, entertainment	k. Number of workers at dispute location 1000

l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (*set forth a clear and concise statement of the facts constituting the alleged unfair labor practices*)

Within the last six months, the above-named Employer, through its officers, agents, and representatives, has failed to bargain in good faith, by, among other things: refusing to recognize or negotiate with the International Union of Operating Engineers Local 501, AFL-CIO (Union) as the certified exclusive bargaining representative of all full-time and regular part-time slot technicians and utility technicians employed by the above-named Employer at its Las Vegas, Nevada facility; and by refusing to timely provide and/or unreasonably delaying providing relevant and necessary information requested by the Union for the purposes of collective bargaining.

By these and other acts, the above-named Employer, has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed by Section 7 of the National Labor Relations Act.

3. Full name of party filing charge (*if labor organization, give full name, including local name and number*)
International Union of Operating Engineers Local 501, AFL-CIO

4a. Address (street and number, city, state, and ZIP code) 301 Deauville Street, Las Vegas, NV 89106-3912	4b. Tel. No. (702)382-8452 4c. Cell No. (702)622-0846 4d. Fax No. (702)388-5813 4e. e-Mail jsoto@local501.org

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (*to be filled in when charge is filed by a labor organization*)
International Union of Operating Engineers, AFL-CIO

6. DECLARATION **I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.**	Tel. No. (702)382-8452
By: (signature of representative or person making charge) Jose Soto Director of Organizing Print Name and Title	Office, if any, Cell No. (702)622-0846 Fax No. (702)388-5813
Address: 301 Deauville Street, Las Vegas, NV 89106-3912 Date: 4-18-18	e-Mail jsoto@local501.org

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

1-2221797828

Exhibit 13

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

NP PALACE LLC D/B/A PALACE STATION HOTEL & CASINO **and** **INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO**	**Case 28-CA-218622**

AFFIDAVIT OF SERVICE OF: CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on **April 18, 2018,** I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Scott Nelson, General Manager
NP Palace LLC d/b/a Palace Station
Hotel & Casino
2411 West Sahara Avenue
Las Vegas, NV 89102-4377

Harriet Lipkin, Attorney at Law
DLA Piper LLP (US)
500 8th Street NW
Washington, DC 20004-2131

April 18, 2018 Date	Dawn M. Moore, Designated Agent of NLRB Name
	/s/ Dawn M. Moore Signature

Exhibit 14

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

NP PALACE LLC d/b/a PALACE STATION HOTEL & CASINO

and **Case 28-CA-218622**

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AFL-CIO

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by the International Union of Operating Engineers Local 501, AFL-CIO (the Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that NP Palace LLC d/b/a Palace Station Hotel & Casino (Respondent, has violated the Act as described below.

1. The charge in this proceeding was filed by the Union on April 18, 2018, and a copy was served on Respondent by U.S. mail on the same date.

2. (a) At all material times, Respondent has been a limited liability company with an office and place of business in Las Vegas, Nevada (Respondent's facility), and has been engaged in operating a hotel casino.

(b) During the 12-month period ending April 18, 2018, Respondent in conducting its operations described above in paragraph 2(a), purchased and received at Respondent's facility goods valued in excess of $50,000 directly from points outside the State of Nevada.

Exhibit 15

(c) In conducting its operations during the 12-month period ending April 18, 2018, Respondent derived gross revenues in excess of $500,000.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. (a) At all material times, Valerie Murzl has held the position of Corporate Vice President of Human Resources and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

(b) At all material times, Respondent's counsel have been agents of Respondent within the meaning of Section 2(13) of the Act.

5. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time slot technicians and utility technicians employed by the Employer at its Las Vegas, Nevada facility; excluding, all other employees, office clerical employees, professional employees, guards, and supervisors as defined in the Act.

(b) On about January 18, 2018, the Regional Director for Region 28 of the Board issued a Certification of Representative, certifying the Union as the exclusive collective-bargaining representative of the Unit.

(c) At all times since about January 18, 2018, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

(e) Since about January 22, 2018, the Union has requested that Respondent recognize and bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

(f) Since about January 22, 2018, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

(g) Since about January 22, 2018, the Union has requested in writing that Respondent furnish the Union with the following information:

(1) A list of current bargaining unit employees including their names, dates of hire, rates of pay, job classification, last known address, phone number, and date of completion of any probationary period.

(2) Copies of all manuals, training materials, documentation, memoranda, communications and policies related to the operation of any work distribution system currently in use.

(3) A copy of all current company policies, practices and/or procedures bargaining unit members are expected to follow.

(4) A copy of all departmental policies, practices and/or procedures that bargaining unit members are expected to follow.

(5) Copies of all current job descriptions for all bargaining unit members, including but not limited to information regarding required professional and/or technical licenses.

(6) Copies of all job descriptions for non-bargaining unit personnel assigned to supervise bargaining unit members, including but not limited to information regarding required professional and/or technical licenses.

(7) Copies of all disciplinary notices, warnings or records of disciplinary actions involving bargaining unit members occurring July 1, 2012 or later.

(8) Copies of all job bids posted July 1, 2012 or later involving bargaining unit members, and the results of those bids.

(9) Copies of all shift schedules for bargaining unit members effective January 1, 2015 or later.

(10) Copies of all written customer complaints involving bargaining unit members. Please also provide copies of all internal memorandums concerning oral customer complaints. If the complaints were oral and there is no written record, please provide a description of each such complaint including the customer's name, nature of complaint, employee involved and disposition both with respect to the complaint as well as any discipline which might have been imposed.

(11) Copies of all OSHA 300 Logs from July 1, 2012 through now.

(12) Copies of all OSHA Forms 301 from July 1, 2012 through now.

(13) Copies of all safety committee minutes from July 1, 2012 through now.

(h) Since about January 31, 2018, the Union has requested in writing that Respondent furnish the Union with the following information:

(1) A list of current employees including their names, dates of hire, rates of pay, job classification, last known address, phone number, date of completion of any probationary period, and social security number.

(2) Copies of all current job descriptions.

(3) A copy of all company fringe benefit plans including retirement, sick time, profit sharing, severance, stock incentive, vacation, health and welfare, apprenticeship, training, education, legal services, child care or any plans which relate to the employees.

(4) Copies of any company wage or salary plans.

(5) A copy of all current company personnel policies, practices and procedures.

(j) The information requested by the Union, as described above in paragraphs 5(g) and (h), is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(k) Since about January 22, 2018, Respondent, by its counsel, in writing, has failed and refused to furnish the Union with the information requested by it as described above in paragraph 5(g).

(l) Since about January 31, 2018, Respondent, by its counsel, in writing, has failed and refused to furnish the Union with the information requested by it as described above in paragraph 5(h).

6. By the conduct described above in paragraph 5, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

7. The unfair labor practice of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

The Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to this complaint. The answer must be **received by this office on or before May 16, 2018, or postmarked on or before May 15, 2018.** Respondent should file an original copy of the answer with this office. Respondent should serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **File Case Documents,** enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure

because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on a date and at a time to be determined, at the Hearing Room, National Labor Relations Board, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, Nevada, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the

hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Phoenix, Arizona, this 2nd day of May 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

Attachments

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

NP PALACE LLC d/b/a PALACE STATION HOTEL & CASINO

and **Case 28-CA-218622**

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 501, AAFL-CIO

AFFIDAVIT OF SERVICE OF: COMPLAINT AND NOTICE OF HEARING (with Forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on May 2, 2018, I served the above-entitled document(s) by **certified mail or E-Mail,** as noted below, upon the following persons, addressed to them at the following addresses:

NP Palace LLC d/b/a Palace
Station Hotel & Casino
2411 West Sahara Avenue
Las Vegas, NV 89102-4377
Certified – 7016 0910 0001 0735 7555

Harriet Lipkin, Attorney at Law
DLA Piper LLP (US)
500 8th Street NW
Washington, DC 20004-2131
Email: harriet.lipkin@dlapiper.com

International Union of Operating
Engineers, Local 501, AFL-CIO
301 Deauville Street
Las Vegas, NV 89106-3912

David A. Rosenfeld, Attorney at Law
Weinberg Roger & Rosenfeld
1001 Marina Village Parkway, Suite. 200
Alameda, CA 94501-6430
Email: drosenfeld@unioncounsel.net

May 2, 2018
Date

Stephanie Blackburn-Jorgensen,
Designated Agent of NLRB
Name

/s/ Stephanie Blackburn-Jorgensen
Signature

Exhibit 16

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

NP PALACE LLC d/b/a
PALACE STATION HOTEL & CASINO

and **Cases 28-CA-218622**

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 501, AFL-CIO

ANSWER TO COMPLAINT AND NOTICE OF HEARING AND AFFIRMATIVE DEFENSES

Comes now Respondent NP Palace LLC d/b/a Palace Station Hotel & Casino ("Palace Station" or "Employer"), by and through counsel, and for its Answer to the Complaint and Notice of Hearing ("Complaint") issued in the above-captioned matter, states as follows:

1. Palace Station admits the truth of the allegations in paragraph 1 of the Complaint.

2. Palace Station admits the truth of the allegations in paragraph 2 of the Complaint.

3. Palace Station admits the truth of the allegation in paragraph 3 of the Complaint, but clarifies that International Union of Operating Engineers Local 501, AFL-CIO ("Union") admits into membership employees other-than guards.

4. Palace Station admits the truth of the allegations in paragraph 4(a) of the Complaint. Palace Station admits that its counsel has been its agents within the meaning of Section 2(13) of the Act, at specified times.

5. Palace Station denies the truth of the allegation in paragraph 5(a) of the Complaint, because "All full-time . . . slot technicians and utility technicians employed by [Palace Station] . . ." are "guards" as defined by the Act. Palace Station denies that it employs regular part-time slot technicians and utility technicians.

Exhibit 17

Palace Station admits that on or about January 18, 2018, the Regional Director issued a Certification of Representative.

Palace Station denies the truth of the allegations in paragraph 5(c) of the Complaint. Palace Station admits the truth of the allegations in paragraphs 5(e), (f), (g) and (h). Palace Station denies the truth of the allegations in paragraph 5(j). Palace Station admits the truth of the allegations in paragraphs 5(k) and (l).

6. Palace Station denies the truth of the allegations in paragraph 6 of the Complaint.

7. Palace Station denies the truth of the allegations in paragraph 7 of the Complaint.

Palace Station denies any and all allegations in the Complaint absent a specific admission.

AFFIRMATIVE DEFENSES

Comes now Palace Station, and for its affirmative defenses, states as follows:

1. The Complaint must be dismissed because it fails to state a claim upon which relief may be granted.

2. The Regional Director's Certification of Representative was issued without basis, is inconsistent with the law, and is not valid and enforceable, because the Union admits into membership employees other than guards, and the bargaining unit is composed of "guards" as defined by the Act.

Date: May 7, 2018

Respectfully Submitted,

/s/ Harriet Lipkin

Harriet Lipkin
DLA Piper LLP (US)
500 Eighth Street NW
Washington, D.C. 20004
202.799.4250
harriet.lipkin@dlapiper.com

Kevin Harlow
DLA Piper LLP (US)
401 B Street, Suite 1700
San Diego, CA 92101
619.699.3402
kevin.harlow@dlapiper.com

Attorneys for Employer,
NP PALACE LLC d/b/a
PALACE STATION HOTEL & CASINO

CERTIFICATE OF SERVICE

I hereby certify this 7th day of May, 2018, that a copy of the Answer to Complaint and Notice of Hearing and Affirmative Defenses was served via email and first class mail to:

Cornele A. Overstreet
National Labor Relations Board
2600 North Central Avenue – Suite 1400
Phoenix, AZ 85004
cornele.overstreet@nlrb.gov

David A. Rosenfeld
Weinberg Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-6430
drosenfeld@unioncounsel.net

Elise Oviedo
National Labor Relations Board
Las Vegas Resident Office
Foley Federal Building
300 S. Las Vegas Blvd. Ste. 2-901
Las Vegas, NV 89101
elise.oviedo@nlrb.gov

Jose Soto, Director of Organizing
International Union of Operating Engineers, Local 501
301 Deauville Street
Las Vegas, NV 89106-3912
jsoto@local501.org

Adam Stern
The Myers Law Group
9327 Fairway View Place
Suite 100
Rancho Cucamonga, CA 91730
laboradam@aol.com

/s/ Christine Yang
An Employee of DLA Piper LLP (US)

From:	Harlow, Kevin
To:	(b) (6), (b) (7)(C); Overstreet, Cornele; Oviedo, Elise F.; Lipkin, Harriet; Yang, Christine; gkline@culinaryunion226.org; Giardina, Christopher
Cc:	Eric Myers
Subject:	RE: FP Holdings, L.P., d/b/a Palms Casino Resort / Case 28-RC-217964
Date:	Wednesday, May 9, 2018 7:15:00 PM
Attachments:	Opposition to Motion to Reopen Record.pdf

All, attached please find the Employer's Opposition to the below Motion, which has also been electronically filed with the Region. Thanks,

-Kevin

From: (b) (6), (b) (7)(C) @msh.law]
Sent: Wednesday, May 09, 2018 12:28 PM
To: Cornele.Overstreet@nlrb.gov; Oviedo, Elise F.; Lipkin, Harriet; Harlow, Kevin; Yang, Christine
Cc: Eric Myers
Subject: FP Holdings, L.P., d/b/a Palms Casino Resort / Case 28-RC-217964

Dear All,

Please see attached for Petitioner's motion to reopen record efiled today on with the NLRB.

Regards,

(b) (6), (b) (7)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) *Eric B. Myers and John J. Davis, Jr.*

McCRACKEN, STEMERMAN & HOLSBERRY, LLP

595 Market Street, Suite 800

San Francisco, CA 94105

Phone: (415) 597-7200 (b) (6), (b) (7)(C)

Fax: (415) 597-7201

Email: (b) (6), (b) (7)(C) @msh.law

Please consider the environment before printing this email.

The information contained in this email may be confidential and/or legally privileged. It has been sent for the sole use of the intended recipient(s). If the reader of this message is not an intended recipient, you are hereby notified that any unauthorized review, use, disclosure, dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please reply to the sender and destroy all copies of the message. To contact us directly, send to postmaster@dlapiper.com. Thank you.

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT **and** **LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS**	**Case No. 28-RC-217964**

OPPOSITION TO MOTION TO REOPEN RECORD

Rule 102.67(e)(1) of the Board's Rule & Regulations permits a party to move to reopen the record only "because of extraordinary circumstances," and requires that the moving party specify, among other things, "the prejudice to the movant alleged to result from such error" and "what result [the newly discovered evidence] would require if adduced and credited."

Here, the Regional Director concluded that the anticipated expansion of the bargaining unit by 270 employees was not sufficient grounds to dismiss the petition because the Employer already employed a substantial complement of employees (*i.e.*, it employed more than 30% of the total anticipated complement of employees). While the Employer disputes the Regional Director's conclusion, the Petitioner's proposed new evidence is immaterial to the Regional Director's analysis. There has been no prejudice to the Petitioner and crediting the Petitioner's evidence would not compel a different conclusion. Consequently, there are no "extraordinary circumstances" meriting a re-opening of the hearing and imposing additional burden and expense on the Region and the Employer. The Petitioner's Motion should be denied.

Respectfully Submitted,

Date: May 9, 2018

/s/ Harriet Lipkin

Harriet Lipkin
DLA Piper LLP (US)
500 Eighth Street NW

Washington, D.C. 20004

Kevin Harlow
DLA Piper LLP (US)
401 B Street, Suite 1700
San Diego, CA 92101

CERTIFICATE OF SERVICE

I hereby certify this 9th day of May, 2018, that a copy of the Employer's Opposition to Motion to Reopen Record was electronically served on the Region through the Board's electronic filing system, and also served on:

Christopher J. Giardina
National Labor Relations Board
Las Vegas Resident Office
Foley Federal Building
300 S. Las Vegas Blvd. Ste. 2-901
Las Vegas, NV 89101
Christopher.Giardina@nlrb.gov

Elise Oviedo
National Labor Relations Board
Las Vegas Resident Office
Foley Federal Building
300 S. Las Vegas Blvd. Ste. 2-901
Las Vegas, NV 89101
Elise.Oviedo@nlrb.gov

Eric Myers
McCracken, Stemerman & Holsberry, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
ebm@msh.law

Geoconda Arguello Kline
1630 S. Commerce St.
Las Vegas, NV 89102
gkline@culinaryunion226.org

/s/ Kevin Harlow
An Employee of DLA Piper LLP (US)

From:	Zayas, Christian D.
To:	kevin.harlow@dlapiper.com; marsha.striano@stationcasinos.com; Valerie.murzl@stationcasinos.com; alma@teamsters986.org; lnlevy@levyphillipslaborlaw.com; dbarth@levyphillipslaborlaw.com
Cc:	McGuire, Susan L.
Subject:	FP Holdings, L.P., d/b/a Palms Casino Resort / 28-RC-220271
Date:	Monday, May 21, 2018 6:37:34 PM
Attachments:	image001.png LTR.28-RC-220271.Letter.pdf AGR.28-RC-220271.Stipulated Election Agreement.docx.pdf NEE.28-RC-220271.Notice of Election-Manual.pdf

---

Ladies and Gentlemen,

Please see attached.

V/R

Christian D. Zayas

NATIONAL LABOR RELATIONS BOARD

Secretary to the Assistant Regional Director
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004-3099
(602)416-4772

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 28
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004

Agency Website: www nlrb.gov
Telephone: (602)640-2160
Fax: (602)640-2178

May 21, 2018

FP Holdings, L.P., d/b/a Palms Casino Resort
Email: valerie.murzl@stationcasinos.com
Email: marsha.striano@stationcasinos.com

General Teamsters, Airline, Aerospace and
Allied Employees, Warehousemen, Drivers,
Construction, Rock and Sand, Local 986,
International Brotherhood of Teamsters
Email: alma@teamsters986.org

Re: FP Holdings, L.P., d/b/a
Palms Casino Resort
Case 28-RC-220271

Ladies:

Enclosed are the Notice of Election and a copy of the election agreement that I have approved in this case. This letter will provide you with information about the voter list, posting and distribution of the election notices, and the agreed-upon election arrangements.

Voter List

The employer must provide the regional director and parties an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters, **accompanied by a certificate of service** on all parties.

To be timely filed and served, the list must be *received* by the regional director and the parties by May 23, 2018. **The region will no longer serve the voter list.** The employer's failure to file or serve the list within the specified time or in the proper format is grounds for setting aside the election whenever proper and timely objections are filed. However, the employer may not object to the failure to file or serve the list in the specified time or in the proper format if it is responsible for the failure.

The list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with

each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the employer must electronically file the list with the regional director and electronically serve the list on the other parties. Electronic filing of the list with the NLRB through the Agency website is preferred but not required. To file electronically, go to **www.nlrb.gov,** click on **E-File Documents,** enter the **NLRB case number,** and follow the detailed instructions. The list also may be submitted to our office by email or fax to (702)388-6248. The burden of establishing the timely filing and receipt of the list is on the sending party.

Posting and Distribution of Election Notices

The Employer must post copies of the attached Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted at least 3 full working days prior to 12:01 am on the day of the election and must also distribute the Notice of Election electronically to any employees in the unit with whom it customarily communicates electronically. The Notice of Election must be posted so all pages are simultaneously visible. In this case, the notices must be posted and distributed **before 12:01 a.m. on Friday, May 25, 2018.** The employer's failure to timely post or distribute the election notices is grounds for setting aside the election if proper and timely objections are filed. However, a party is stopped from objecting to the nonposting or nondistribution of notices if it is responsible for the nonposting or nondistribution.

To make it administratively possible to have election notices and ballots in a language other than English, please notify the Board agent immediately if that is necessary for this election. Also, as noted in paragraph 10 of the stipulated election agreement, if special accommodations are required for any voters, potential voters, or election participants to vote or reach the voting area, please tell the Board agent as soon as possible.

Election Arrangements

The arrangements for the election in this matter are as follows:

Date of Election: Thursday, May 31, 2018

Time: 11:00 a.m. to 1:00 p.m.

Place: Ballroom Section 1

Election Observers: Each party may have one observer for each polling session. The observers may be present at the polling place during the balloting and to assist the Board agent in counting the ballots after the polls have been closed. **Please complete the enclosed Designation of Observer form and return it to this office as soon as possible.**

Preelection Conference: A preelection conference for all parties will be held on Thursday, May 31, 2018 at 10:30 a.m. at the polling area. The parties are requested to have their election observers present at this conference so that the observers may receive instruction from the Board Agent about their duties.

Election Equipment: The Board agent conducting the election will furnish the ballot box, ballots, and voting booths. The Employer is requested to provide, at the polling place, a table and a sufficient number of chairs for use by the Board agent and observers during the election.

Enclosed is a Description of Election and Post-Election Procedures in Representation Cases, Form NLRB-5547, which describes the election and the method for handling challenges as well as post-election proceedings to deal with determinative challenges and any objections that are filed.

If you have any questions, please feel free to contact Field Examiner Susan L. McGuire at telephone number (702)820-7468 or by email at susan.mcguire@nlrb.gov. The cooperation of all parties is sincerely appreciated.

Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosures

1. Approved Election Agreement
2. Notice of Election
3. Designation of Observer Form
4. Description of Procedures in Election and Post-Election Representation Case Procedures (Form 5547)

cc: Kevin D. Harlow, Attorney at Law
DLA Piper LLP
Email: kevin.harlow@dlapiper.com

Lewis N. Levy, Attorney at Law
Daniel R. Barth, Attorney at Law
Levy Phillips, APC, Attorneys at Law
Email: lnlevy@levyphillipslaborlaw.com
Email: dbarth@levyphillipslaborlaw.com

CAO/SLM/cdz

DESIGNATION OF OBSERVER(S)

Re: FP Holdings, L.P., d/b/a Palms Casino Resort
Case 28-RC-220271

FP Holdings, L.P., d/b/a Palms Casino Resort hereby designates the individual listed below to act as its observer during the election in the above case.

Observer's Name	Observer's Job Title
1.	

I certify that each of the above-named individuals is an employee of the Employer and is not a supervisor within the meaning of Section 2(11) of the Act.

FP Holdings, L.P., d/b/a Palms Casino Resort
(Name of Party)

By: _____
(Signature)

_____
(Representative Name: Print or Type)

_____
(Representative Title)

_____
(Date)

Note: Board law prohibits any statutory supervisor from serving as an election observer. Section 2(11) of the National Labor Relations Act states: "The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

DESIGNATION OF OBSERVER(S)

Re: FP Holdings, L.P., d/b/a Palms Casino Resort
Case 28-RC-220271

General Teamsters, Airline, Aerospace and Allied Employees, Warehousemen, Drivers, Construction, Rock and Sand, Local 986, International Brotherhood of Teamsters hereby designates the individual listed below to act as its observer during the election in the above case.

Observer's Name	Observer's Job Title
1.	

I certify that each of the above-named individuals is an employee of the Employer and is not a supervisor within the meaning of Section 2(11) of the Act.

General Teamsters, Airline, Aerospace and Allied Employees, Warehousemen, Drivers, Construction, Rock and Sand, Local 986, International Brotherhood of Teamsters

(Name of Party)

By: _____

(Signature)

_____

(Representative Name: Print or Type)

_____

(Representative Title)

_____

(Date)

Note: Board law prohibits any statutory supervisor from serving as an election observer. Section 2(11) of the National Labor Relations Act states: "The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

DESCRIPTION OF ELECTION AND POST-ELECTION REPRESENTATION CASE PROCEDURES

Election – A secret ballot election will be conducted by an agent of the National Labor Relations Board on the date and at the time(s) and location(s) specified in the Notice of Election. Unless the election is conducted by mail ballot, each party is usually represented by an equal number of observers at the polls during the election. When a voter appears to vote, the voter is asked to state his or her name and is given a ballot to take to a voting booth and mark in secret. The voter folds the marked ballot and then drops it into a ballot box without showing the marking to anyone. Parties or the Board agent may challenge for good cause the eligibility of a voter to participate in the election. A challenged voter will place his or her ballot in a special envelope before placing it in the ballot box. After the time for voting has concluded but before counting the ballots, the Board agent will see if the parties can agree to resolve some or all of the challenges. The Board agent will then count the ballots and prepare a Tally of Ballots and make that Tally available to the parties. If the unresolved challenged ballots will not determine the outcome of the election, the challenged ballots are never opened and no determination is made on the voters' eligibility. If the remaining challenged ballots are determinative of the results of the election, those challenged ballots will be sealed in a special envelope in front of the parties and stored in a safe in an NLRB office.

Challenged Ballots –If the challenged ballots are determinative, the regional director will send a letter to the parties after the election, listing the challenged voters and asking the parties to submit a statement of position with respect to the challenge to the ballot of each voter listed above detailing why each of the challenged individuals is or is not eligible to vote. The regional director will then determine whether it is necessary to conduct an investigation or schedule a hearing to resolve the determinative challenges.

Objections – Within 7 days after the Tally of Ballots has been prepared, any party may file objections to the conduct of the election or to conduct affecting the results of the election. The objections must be submitted within this time frame, regardless of whether the challenged ballots are sufficient in number to affect the results of the election. The objections must contain a short statement of the reasons for the objections and be accompanied by a written offer of proof identifying each witness the party would call to testify concerning the issue and summarizing the witness's testimony. Upon a showing of good cause, the regional director may extend the time for filing the offer of proof. The party filing the objections will serve a copy of the objections, but not the written offer of proof, on each of the other parties to the case, and include a certificate of service with the objections. The objections may be E-Filed through the Agency's E-Filing system. Objections may also be submitted by facsimile transmission, but the filer must also file an original for the Agency's records.

Certification in the Absence of Objections, Determinative Challenges, and Runoff Elections -- If no timely objections are filed, no runoff election is required to be held, and the challenged ballots are insufficient in number to affect the results of the election, the regional director will issue a certification of the results of the election, including certification of representative where appropriate.

Regional Office Investigation and Decisions without a Hearing -- A Board agent may be assigned to conduct an administrative investigation of determinative challenges and objections. If the regional director determines that the evidence described in the offer of proof would not constitute grounds for setting aside the election if introduced at a hearing, and the regional director determines that any determinative challenges do not raise substantial and material factual issues, the regional director will issue a decision disposing of the objections and determinative challenges, and a certification of the results of the election, including certification of representative where appropriate.

Notices of Hearing on Challenges and/or Objections -- The regional director will schedule the hearing on challenges and/or objections 21 days after the preparation of the tally of ballots or as soon as practicable thereafter, unless the parties agree to an earlier date. In some cases, the regional director may consolidate the hearing concerning

objections and challenges with an unfair labor practice proceeding before an administrative law judge. In any proceeding involving a consent election where the representation case has been consolidated with an unfair labor practice proceeding for hearing, the administrative law judge will, after issuing a decision, sever the representation case and transfer it to the regional director for further processing. If there was no consent election, the administrative law judge's recommendations on objections and/or challenges that have been consolidated with an unfair labor practice proceeding will be ruled upon by the Board if exceptions are filed or adopted in the absence of exceptions.

Voluntary Resolution -- An objecting party may wish to withdraw its objections. The withdrawal may be oral or written. When objections are withdrawn, the regional director may issue the appropriate certification. If the parties agree to set aside the election and conduct a new one, the Board agent will prepare a written agreement for their signature and approval by the regional director. Agreement of the objecting party is not required.

Hearing on Challenges and/or Objections -- The hearing will continue from day to day until completed unless the regional director concludes that extraordinary circumstances warrant otherwise. Any party will have the right to appear at the hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the objections and determinative challenges that are the subject of the hearing. Post-hearing briefs may be filed only upon special permission of the hearing officer and within the time and addressing the subjects permitted by the hearing officer.

Hearing Officer's Report and Exceptions -- After the hearing, the hearing officer will prepare and serve on the parties a report resolving questions of credibility and containing findings of fact and recommendations as to the disposition of the post-election issues. Within 14 days from the issuance of that report, any party may file with the regional director exceptions to that report and a supporting brief if desired. A copy of the exceptions and any supporting brief must immediately be served on the other parties and a statement of service filed with the regional director. Within 7 days from the last date on which exceptions and any supporting brief may be filed, or such further time as the regional director may allow, a party opposing the exceptions may file an answering brief. A copy of the answering brief must immediately be served on the other parties and a statement of service filed with the regional director. Thereafter, the regional director will decide the matter or make other disposition of the case. If no exceptions to the hearing officer's report are filed, the regional director may decide the matter upon the record or make other disposition of the case. The decision of the regional director will be final unless a request for review is granted by the Board.

Briefs in support of exceptions and answering briefs may not exceed 50 pages, excluding the subject index and table of cases and authorities, unless permission is obtained from the regional director by motion, setting forth the reasons for exceeding the limit, filed not less than 5 days (including Saturdays, Sundays, and holidays) before the date the brief is due. If a brief filed exceeds 20 pages, it must contain a subject index with page references and an alphabetical table of cases and authorities. All documents filed with the regional director must be double spaced and on 8 ½ by 11-inch paper, and be printed or otherwise legibly duplicated.

Request For Review by the Board – In stipulated and directed election cases, any party may request Board review of the regional director's post-election decision. The request for review must be filed with the Board within 14 days of the director's post-election decision and must be served on the regional director and the other parties. This may be combined with a request for review of the regional director's decision to direct an election. A statement of service must also be filed with the Board. Any party opposing the request for review may file a statement in opposition within 7 days after the last day for which the request for review must be filed. If the Board grants the request for review, the parties have 14 days from the order granting review to file briefs with the Board. A party seeking review must identify a significant, prejudicial error or some other compelling reason for Board review.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

STIPULATED ELECTION AGREEMENT

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT **Case 28-RC-220271**

The parties **AGREE AS FOLLOWS:**

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, FP Holdings, L.P., d/b/a Palms Casino Resort, a Nevada partnership with an office and place of business in Las Vegas, Nevada, is engaged in operating a hotel and casino providing food, lodging, entertainment and gaming. During the 12-month period ending May 14, 2018, the Employer derived gross revenues in excess of $500,000. During the 12-month period ending May 14, 2018, the Employer, in conducting its business operations described above, purchased and received at its facility goods valued in excess of $50,000 directly from points outside the State of Nevada.

3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

DATE: Thursday, May 31, 2018 **HOURS:** 11:00 a.m. to 1:00 p.m.

PLACE: Ballroom Section 1

If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All full-time and regular part-time Warehouse Receivers employed by the Employer at its facility in Las Vegas, Nevada.

EXCLUDED: All other employees employed by the Employer, Office Clerical employees, Confidential employees, Professional employees, Inventory Control Clerks, Guards, Managers, and Supervisors as defined in the Act.

Initials: KH

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending May 20, 2018**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above in paragraph 4.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

7. THE BALLOT. The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by General Teamsters, Airline, Aerospace and Allied Employees, Warehousemen, Drivers, Construction, Rock and Sand, Local 986, International Brotherhood of Teamsters?" The choices on the ballot will be "Yes" or "No".

8. NOTICE OF ELECTION. The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

9. NOTICE OF ELECTION ONSITE REPRESENTATIVE. The following individual will serve as the Employer's designated Notice of Election onsite representative: Marsha Striano,

Initials: KH

Corporate Director of Team Member Relations, Station Casinos LLC, 1505 South Pavilion Center Drive, Las Vegas, NV 89135, e-mail Marsha.Striano@stationcasinos.com, telephone (702)495-3468, facsimile (702)495-3460.

10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

12. TALLY OF BALLOTS. Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

13. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT	**GENERAL TEAMSTERS, AIRLINE, AEROSPACE AND ALLIED EMPLOYEES, WAREHOUSEMEN, DRIVERS, CONSTRUCTION, ROCK AND SAND, LOCAL 986, INTERNATIONAL BROTHERHOOD OF TEAMSTERS**
(Employer)	(Petitioner)
By [illegible] 5/21/18	By
(Name) (Date)	(Name) (Date)

Recommended: Susan L. McGuire 5/21/2018
Susan L. McGuire, Field Examiner (Date)

Date approved: May 21, 2018

Regional Director, Region 28
National Labor Relations Board

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

STIPULATED ELECTION AGREEMENT

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT **Case 28-RC-220271**

The parties **AGREE AS FOLLOWS**:

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, FP Holdings, L.P., d/b/a Palms Casino Resort, a Nevada partnership with an office and place of business in Las Vegas, Nevada, is engaged in operating a hotel and casino providing food, lodging, entertainment and gaming. During the 12-month period ending May 14, 2018, the Employer derived gross revenues in excess of $500,000. During the 12-month period ending May 14, 2018, the Employer, in conducting its business operations described above, purchased and received at its facility goods valued in excess of $50,000 directly from points outside the State of Nevada.

3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

DATE: Thursday, May 31, 2018 **HOURS:** 11:00 a.m. to 1:00 p.m.

PLACE: Ballroom Section 1

If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All full-time and regular part-time Warehouse Receivers employed by the Employer at its facility in Las Vegas, Nevada.

EXCLUDED: All other employees employed by the Employer, Office Clerical employees, Confidential employees, Professional employees, Inventory Control Clerks, Guards, Managers, and Supervisors as defined in the Act.

Initials: _____

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending May 20, 2018**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above in paragraph 4.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

7. THE BALLOT. The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by General Teamsters, Airline, Aerospace and Allied Employees, Warehousemen, Drivers, Construction, Rock and Sand, Local 986, International Brotherhood of Teamsters?" The choices on the ballot will be "Yes" or "No".

8. NOTICE OF ELECTION. The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

9. NOTICE OF ELECTION ONSITE REPRESENTATIVE. The following individual will serve as the Employer's designated Notice of Election onsite representative: Marsha Striano,

Initials: _____

Corporate Director of Team Member Relations, Station Casinos LLC, 1505 South Pavilion Center Drive, Las Vegas, NV 89135, e-mail Marsha.Striano@stationcasinos.com, telephone (702)495-3468, facsimile (702)495-3460.

10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

12. TALLY OF BALLOTS. Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

13. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT
(Employer)

By _____
(Name) (Date)

GENERAL TEAMSTERS, AIRLINE, AEROSPACE AND ALLIED EMPLOYEES, WAREHOUSEMEN, DRIVERS, CONSTRUCTION, ROCK AND SAND, LOCAL 986, INTERNATIONAL BROTHERHOOD OF TEAMSTERS
(Petitioner)

By _____ 5/15/18
(Name) (Date)
Lewis Levy, Counsel

Recommended: Susan L. McGuire 5/21/2018
Susan L. McGuire, Field Examiner (Date)

Date approved: May 21, 2018

Regional Director, Region 28
National Labor Relations Board

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by SECRET ballot under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Electioneering will not be permitted at or near the polling place. Violations of these rules should be reported immediately to an NLRB agent. Your attention is called to Section 12 of the National Labor Relations Act which provides: ANY PERSON WHO SHALL WILLFULLY RESIST, PREVENT, IMPEDE, OR INTERFERE WITH ANY MEMBER OF THE BOARD OR ANY OF ITS AGENTS OR AGENCIES IN THE PERFORMANCE OF DUTIES PURSUANT TO THIS ACT SHALL BE PUNISHED BY A FINE OF NOT MORE THAN $5,000 OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off, and also include employees in the military service of the United States who appear in person at the polls. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are *not* eligible to vote.

SPECIAL ASSISTANCE: Any employee or other participant in this election who has a handicap or needs special assistance such as a sign language interpreter to participate in this election should notify an NLRB Office as soon as possible and request the necessary assistance.

PROCESS OF VOTING: Upon arrival at the voting place, voters should proceed to the Board agent and identify themselves by stating their name. The Board agent will hand a ballot to each eligible voter. Voters will enter the voting booth and mark their ballot in secret. DO NOT SIGN YOUR BALLOT. Fold the ballot before leaving the voting booth, then personally deposit it in a ballot box under the supervision of the Board agent and leave the polling area.

CHALLENGE OF VOTERS: If your eligibility to vote is challenged, you will be allowed to vote a challenged ballot. Although you may believe you are eligible to vote, the polling area is not the place to resolve the issue. Give the Board agent your name and any other information you are asked to provide. After you receive a ballot, go to the voting booth, mark your ballot and fold it so as to keep the mark secret. DO NOT SIGN YOUR BALLOT. Return to the Board agent who will ask you to place your ballot in a challenge envelope, seal the envelope, place it in the ballot box, and leave the polling area. Your eligibility will be resolved later, if necessary.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the voting place and at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

All full-time and regular part-time Warehouse Receivers employed by the Employer at its facility in Las Vegas, Nevada, who were employed by the Employer during the payroll period ending May 20, 2018.

EMPLOYEES NOT ELIGIBLE TO VOTE:

All other employees employed by the Employer, Office Clerical employees, Confidential employees, Professional employees, Inventory Control Clerks, Guards, Managers, and Supervisors as defined in the Act.

DATE, TIME AND PLACE OF ELECTION

Date:	Time:	Place:
Thursday, May 31, 2018	11:00 a.m. to 1:00 p.m.	Ballroom Section 1

EMPLOYEES ARE FREE TO VOTE AT ANY TIME THE POLLS ARE OPEN.

UNITED STATES OF AMERICA
National Labor Relations Board
28-RC-220271

OFFICIAL SECRET BALLOT

For certain employees of

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT

Do you wish to be represented for purposes of collective bargaining by

GENERAL TEAMSTERS, AIRLINE, AEROSPACE AND ALLIED EMPLOYEES, WAREHOUSEMEN, DRIVERS, CONSTRUCTION, ROCK AND SAND, LOCAL 986, INTERNATIONAL BROTHERHOOD OF TEAMSTERS?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE

YES	NO
☐	☐

Sample

DO NOT SIGN THIS BALLOT. Fold and drop in the ballot box.

If you spoil this ballot, return it to the Board Agent for a new one.

The National Labor Relations Board does not endorse any choice in this election
Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

Form NLRB-707
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- **Form, join, or assist a union**
- **Choose representatives to bargain with your employer on your behalf**
- **Act together with other employees for your benefit and protection**
- **Choose not to engage in any of these protected activities**
- **In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).**

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- **Threatening loss of jobs or benefits by an Employer or a Union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched in a mail ballot election**
- **Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a Union or an Employer to influence their votes**

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (702)388-6416 or visit the NLRB website www.nlrb.gov for assistance.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

From:	(b) (6), (b) (7)(C)
To:	Overstreet, Cornele; Oviedo, Elise F.; Harriet.Lipkin@dlapiper.com; Kevin.Harlow@dlapiper.com; Christine.Yang@dlapiper.com
Cc:	Eric Myers
Subject:	FP Holdings, L.P., d/b/a Palms Casino Resort / Case 28-RC-217964 [IWOV-Legal.FID344666]
Date:	Thursday, May 24, 2018 5:40:50 PM
Attachments:	Stipulaton by the Parties - Case No. 28-RC-217964.pdf

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Good afternoon,
Please see attached for a stipulation by the parties e-filed today with the NLRB in the above-referenced case.
Regards,

(b) (6), (b) (7)
(b) (6), (b) (7)(C) *Eric B. Myers and John J. Davis, Jr.*
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
Phone: (415) 597-7200 (b) (6), (b) (7)(C)
Fax: (415) 597-7201
Email: (b) (6), (b) (7)(C) @msh.law

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT

Case No. 28-RC-217964

Employer,

and

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS, A/W UNITE HERE INTERNATIONAL UNION,

Petitioner.

STIPULATION BY THE PARTIES

The Employer and Petitioner in the captioned matter hereby stipulate that, following the close of the evidentiary hearing on April 16, 2018, certain events occurred that bear upon the number of employees whom the Employer anticipated at the hearing that it would hire as a result of renovations and who would not have an opportunity to vote in the representation election.

Specifically, the Employer states that, as of the close of the hearing, it anticipated that it would add approximately 273 newly-created positions to its headcount. Because the Decision and Direction of Election did not issue until after the close of the subsequent payroll period, some of those employees had been hired and were eligible to vote in the election. Specifically, 46 employees were hired into positions within the petitioned-for unit. Of those 46 employees, 39 employees were hired into newly-created positions in the: (a) Palms Steakhouse (32 employees); (b) Center Bar (5 employees); and (c) Bakery (2 employees). The remaining 7 employees reflect ordinary turnover within the business. Consequently, as of the date of the election,

approximately 234 employees were projected to be added to the bargaining unit who would not vote in the election.

Petitioner states that it has no evidence to controvert the foregoing. It does not thereby admit that there was sufficient evidentiary support for the Employer's claim that it would ultimately add a total of 273 employees to the unit.

Dated: May 24, 2018

Respectfully submitted,

Eric B. Myers
McCracken, Stemerman & Holsberry, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
Phone: (415) 597-7200
Fax: (415) 597-720
Email: ebm@msh.law

Attorneys for Petitioner

Harriet Lipkin
Kevin Harlow
DLA Piper LLP (US)
500 Eighth Street, NW
Washington, DC 20004
Phone: (202) 799-4250
Fax: (202) 799-5250
Email: harriet.lipkin@dlapiper.com

Attorneys for Employer

PROOF OF SERVICE
STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO

I am employed in the city and country of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 595 Market Street, Suite 800, San Francisco, CA 94105.

I hereby certify that a true and correct copy of the foregoing document entitled **STIPULATION BY THE PARTIES**was filed using the National Labor Relations Board on-line E-filing system on the Agency's website and copies of the aforementioned were therefore served upon the following parties via electronic mail on this 24th day of May, 2018 as follows:

Cornele Overstreet, Regional Director — *Cornele.Overstreet@nlrb.gov*
National Labor Relations Board, Region 28
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101

Elise Oviedo, Esq. — *Elise.Oviedo@nlrb.gov*
National Labor Relations Board, Region 28
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101

Harriet Lipkin — *Harriet.Lipkin@dlapiper.com*
Kevin Harlow — *Kevin.Harlow@dlapiper.com*
Christine Yang — *Christine.Yang@dlapiper.com*
DLA Piper LLP
500 Eighth Street, NW
Washington, DC 20004

Attorneys for Employer

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 24, 2018 at San Francisco, California.

/s/Yien San Juan
Yien San Juan

From:	(b) (6), (b) (7)(C)
To:	Overstreet, Cornele; Oviedo, Elise F.; Harriet.Lipkin@dlapiper.com; Kevin.Harlow@dlapiper.com; Christine.Yang@dlapiper.com
Cc:	Eric Myers
Subject:	FP Holdings, L.P., d/b/a Palms Casino Resort / Case 28-RC-217964 [IWOV-Legal.FID344666]
Date:	Tuesday, May 29, 2018 5:55:42 PM
Attachments:	Petitioner"s Opp to Req for Review 5-29-18.pdf

Good afternoon,
Please see attached for the petitioner's opposition to employer's request for review e-filed today with the NLRB – Office of the Executive Secretary in the above-referenced case.
Regards,

(b) (6), (b) (7)
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) *Eric B. Myers and John J. Davis, Jr.*
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
Phone: (415) 597-7200 (b) (6), (b) (7)(C)
Fax: (415) 597-7201
Email: (b) (6), (b) (7)(C) @msh.law

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C.

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT **Case No. 28-RC-217964**

Employer,

and

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS, A/W UNITE HERE INTERNATIONAL UNION,

Petitioner.

PETITIONER'S OPPOSITION TO EMPLOYER'S REQUEST FOR REVIEW OF REGIONAL DIRECTOR'S DECISION AND CERTIFICATION OF BARGAINING REPRESENTATIVE

Submitted by:

Eric B. Myers
McCracken, Stemerman & Holsberry, LLP
595 Market Street, Suite 800
San Francisco, CA 94105
Telephone: 415-597-7200
Facsimile: 415-597-7201
E-Mail: ebm@msh.law

Pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, the Local Joint Executive Board of Las Vegas, a/w UNITE HERE ("Petitioner") states its opposition to the Request for Review of the Regional Director's Decision and Certification of Representative filed by FP Holdings, L.P. d/b/a Palms Casino Resort ("Employer" or the "Palms").

INTRODUCTION

On April 23, 2018[1], the Regional Director of Region 28 issued a Decision and Direction of Election ("DDE") ordering that a representation election be held in a bargaining unit consisting of approximately 900 employees employed in 35 classifications at the Palms. The Employer argues that the Regional Director departed from officially reported Board precedent by not dismissing the election petition as premature because the Employer assertedly did not yet employ a substantial and representative complement of the workforce that it will employ upon completing renovations to the property in September 2019.

The Employer's argument is without merit. The Regional Director's ruling is consistent with *every* Board case that has addressed the expanding unit scenario, including those cases that the Employer cites in purported support for its position. At the time of the hearing, the Employer employed approximately 75 percent of its future anticipated workforce in 35 out of at most 40 classifications that it would employ by September 2019 (or about 90 percent of such classifications.) Owing to additional hires between the hearing date and the eligibility cut-off date, the percentage of the projected workforce currently employed (and eligible to vote in the election) increased to almost 80 percent. The Board has

[1] All dates are 2018 unless otherwise indicated.

repeatedly maintained that an employer employs a substantial and representative complement of a future workforce "when approximately 30 percent of the eventual complement is employed in 50 percent of the anticipated job classifications." *MJM Studios of New York, Inc*., 336 NLRB 1255, 1256 (2001). That standard was overwhelmingly met here.

The Regional Director's ruling is also correct by any measure of common sense. The Employer cannot seriously argue that it did not employ a "substantial" portion of its anticipated workforce by employing nearly 80 percent of it. Nor can the Employer argue that the work of its current employees is not "representative" of its future workforce when fewer than five classifications performing similar work will be added to the existing 35 classifications. The Employer's notion that it serves the Section 7 interests of employees to wait 18 months to hold an election is plainly wrong. What's more, doing so would have had no effect on the election outcome even if each and every new hire voted against union representation because employees voted by the extraordinary margin of 511 to 98 in favor of representation.[2]

The Regional Director's order directing an immediate election was soundly based on Board precedent. The Employer's request for review is meritless and should be denied.

PROCEDURAL HISTORY

On April 4, Petitioner filed the petition in the captioned matter. An evidentiary hearing was held on April 16. At the hearing, Petitioner amended the petition to describe the proposed bargaining unit as follows:

> All full-time and regular part-time Banquet Servers, Bakers, Bar/Beverage Porters, Bartenders, Banquet Bartenders, Banquet Porters, Beverage Servers,

[2] A copy of the election tally sheet is attached hereto as Appendix A.

> Bus Persons, Cooks, Cooks Helpers, Food Servers, Assistant Food Servers, Guest Room Attendants, Host/Cashiers, House Persons, Kitchen Workers, Lead Porters, Lead Banquet Porters, Mini Bar Attendants, Porters, Room Runners, Service Bartenders, Sprinters, Status Board, Specialty Cooks, Stove Persons, Team Member Dining Room Attendants, Uniform Room Attendants, Utility Porters, VIP Bartenders, and VIP Bar Hosts employed by the Employer at its facility in Las Vegas, Nevada.

The Employer argued that the petition should be dismissed as premature because it was currently conducting renovations to the property. By the time the renovations are completed in September 2019, the Employer projected it would add 273 employees to the complement of approximately 831 employees within the proposed unit as of the date of the hearing. DDE, p. 48, n. 2.

On April 23, the Regional Director issued the DDE. He ruled that the petition was not premature because the Employer currently employed a substantial and representative complement of employees. He also ruled that four classifications of employees excluded from the proposed bargaining unit comprising a total of 14 workers should be permitted to vote subject to challenge, bringing the total complement to 845 putative bargaining unit employees within 35 classifications. DDE, p. 48, n. 2.[3]

In the DDE, the Regional Director identified the eligibility cut-off date as April 8. DDE, p. 8. However, the parties subsequently agreed that the most recent payroll period prior to the issuance of the DDE ended on April 22, and stipulated to an amendment of the

[3] These four additional classifications consisted of Banquet Captains and three "Model" classifications collectively referred to as Pool & Beverage Workers. The Regional Director did not accept the Employer's statement without further evidence that the Banquet Captain is a § 2(11) supervisor and that the Pool & Beverage Workers are temporary, seasonal employees. DDE, 6-7. Petitioner agreed at the hearing to remove these classifications from the proposed bargaining unit based on the Employer's objection.

election notice to state the correct eligibility cut-off. As discussed below, this resulted in an additional 46 being employees being eligible to vote, including 39 of the employees projected to be hired as a result of the renovations.

The election was held on April 27 and 28. Employees voted by the margin of 511 to 98 in favor of representation by the Petitioner. The Regional Director issued the Certification of Representative on May 9.

FACTS

The Palms is a casino gaming operation located off the Las Vegas Strip. In operation since 2001, the property was acquired by the Employer in October 2016. DDE, p. 2. Since then, the Employer has been performing ongoing renovations and upgrades to the property. These are not scheduled to be completed until sometime in the third quarter of 2019, or by September of next year. The expansion plans include the opening of a new steakhouse, a bar called "Center Bar," the addition of new guestrooms, the expansion and upgrade of the casino, and other improvements. DDE, 2-3.[4]

As a result of the renovations and projected increases in business volume attributable to them, the Employer forecasted as of the date of the hearing that it would hire an additional 273 employees by the end of September 2019 whom it contended would fall within the scope of the petitioned-for bargaining unit. Approximately 200 of these new hires would occupy

[4] The Employer states that the expansion will include the "opening of new bars and restaurants," as well as the "revamping of the main pool." Request for Review, p. 1. It should be noted that the Employer will not directly hire employees to staff these third-party operated venues. *See* DDE, p.3 (showing an absence of hiring numbers for the new bars and restaurants and no mention of the pool in explaining the number of projected direct hires). Rather, beyond a few venues identified with specificity, the Employer's projections about hiring are based upon predictions regarding future business volume. *See* note 7, *infra*.

food & beverage classifications, and 73 would occupy internal maintenance and housekeeping classifications. DDE, p. 2.

A timeline for these hires was as follows: approximately 100 employees would be hired during the second quarter of 2018 (including 30 who were already hired by the date of the hearing but whom it was anticipated would not be eligible to vote based on the predicted eligibility cut-off date of April 8); approximately 33 employees would be hired during the third quarter of 2018; approximately 29 would be hired during the fourth quarter of 2018; approximately 86 would be hired during the first quarter of 2019, and approximately 25 would be hired during the third quarter of 2019. There was no record evidence regarding the number of employees the Employer anticipated hiring during the second quarter of 2019, but that number is evidently zero because the hiring in the other quarters equals the 273 that the Employer forecasted would be hired in total. DDE, pp. 2-3.

As a result of the renovations, the Employer asserted that it would add five purportedly "new" classifications to the existing 35 classifications that fall within the scope of the bargaining unit: Steakhouse Captains, VIP Beverage Attendants, Bakers 1, Bakers 2 and Bakers 3. DDE, p. 3.[5] The employees to be hired within the new classifications will be

[5] The Regional Director made no factual determination that these classifications were actually "new." Any such finding would be clearly erroneous at least with respect to the "Baker 1" classification because that classification was already in use prior to the election. (Attached as Appendix B is a portion of Hearing Joint Exhibit 1 showing employees employed as of the date of the hearing within the Baker 1 classification.) Elsewhere, Food & Beverage Director Joey VanBargen testified that Steakhouse Captain and VIP Attendant will be the only new classifications. *See* Tr. 70, attached hereto as Appendix C (together with all transcript references). Thus, the Employer's claim that "Baker 2" and "Baker 3" are "new" classifications is highly dubious. However, Petitioner will assume that they are and base its analysis on there being 39 classifications in total after the renovations (*i.e.*, 31 in the petitioned-for unit, the four challenged classifications, and four "new" classifications).

subject to the same and/or similar terms and conditions of employment and working conditions as employees currently employed within the petitioned-for unit. DDE, p. 3. The renovations will not result in the elimination of any of classifications currently in use. Tr. 69, Appendix C.

As stated above, the Employer intended to hire 100 employees during the second quarter of 2018 as a result of expanding operations. In fact, as of the date of the issuance of the DDE, it had hired 46 of these who were eligible to vote: 39 employees at the new steakhouse; 5 employees at the Center Bar; and 2 employees at the Bakery. See Stipulation by the Parties, attached as Appendix D. This increased the number of eligible voters to close to 900 by the date of the election and it reduced the number of employees whom the Employer predicted would be excluded from participation in the election from 273 to 234. Thus, as of the date of the election, the Employer employed about 79 percent of the workforce that it projected it would hire by the completion of the renovations. It employed these employees in almost 90 percent of the classifications that it would ultimately utilize.[6]

As we now discuss, the number of employees employed as of the date of the hearing and election easily constituted a substantial and representative complement of its future anticipated workforce under Board law.

[6] These percentages are derived as follows. The Regional Director found that 845 employees were employed as of the hearing date. The additional 46 employees would bring the total to 891. With the anticipated hiring of 234 employees, the Employer currently employed 79.2 percent of its projected total complement. These employees were employed in 35 classifications out of a total of 39 to be utilized (not counting Baker 1), which equals 89.7 percent. It bears noting that the election tally sheet approximates the size of the bargaining unit as 910. Therefore, the ratio of current employees to total future employees may actually be understated.

ARGUMENT

The Regional Director correctly rejected the Employer's argument that the approximately 900 employees it employed in 35 classifications was not a "substantial and representative" complement of the workforce that it ultimately projected to hire by September 2019. The Board has never found an election petition to be premature based upon facts similar to those adduced here.

The Board has long maintained that "current employees should not be deprived of the right to select or reject a bargaining representative simply because the Employer plans an expansion in the near future." *Toto Industries*, 323 NLRB 645, 645 (1997). At the same time, the Board will not impose a bargaining representative on employees to be hired in the future "based upon the vote of a *few* currently employed individuals." *Id*. at 645 (emphasis added).

To balance the right of current and future employees, the Board has adhered to the policy that an election should be held where an employer employs a "substantial and representative" of its future anticipated workforce. The Board has in various cases stated that it will find "an existing complement of employees to be 'substantial and representative' when approximately 30 percent of the eventual complement is employed in 50 percent of the anticipated job classifications." *MJM Studios of New York, Inc*., 336 NLRB 1255, 1256 (2001) (citing *Yellowstone Int'l Mailing, Inc*., 332 NLRB 386 (2000); *see also Shares, Inc*., 343 NLRB 445, 445 n. 2 (2004). In applying this standard, the Board will consider a variety of factors, including the size of the present workforce at the time of the hearing, the size of the employee complement eligible to vote, the size of the expected ultimate employee complement, the time expected to lapse before a full work force is present, the time and size

of projected interim hiring increases before reaching a full complement, the number of job classifications requiring different skills that are currently filled and that are expected to be filled when the ultimate complement is reached, and the nature of the industry. *Toto Industries*, 323 NLRB at 645.

The Regional Director correctly found here that the Employer employed a substantial and representative complement of employees as of the date of the hearing so as to warrant an immediate election. While the Employer argues that the Regional Director failed to consider all the evidence, it does not convincingly explain what evidence the Regional did not consider nor how that evidence should change the result. The facts favoring an immediate election are overwhelming. The Employer employed almost 80 percent of its future anticipated workforce in some 90 percent of its future anticipated classifications. These future hires will share the same terms and conditions of employment as current employees and they will work in the same settings. Many will occupy the same classifications, and even members of the small number of new classifications will work alongside current classifications in food & beverage operations. The Palms is not a new operation, but has been operating for years with an established workforce working under established employment terms. The renovations will not be completed until a year and a half from the date of the hearing—not a "relatively minor delay" as the Employer self-servingly asserts.

See Employer's Request for Review, p. 5.[7]

An unbroken line of Board decisions makes clear that the Regional Director's decision is consistent with published NLRB precedent. In *Yellowstone Int'l Mailing*, *supra*, 332 NLRB at 386, the Board found that the employer's anticipated workforce constituted a substantial and representative complement of the workforce that it would employ upon relocating its facility in the imminent future. The Board found that the current complement was substantial because it constituted 38 percent of the workforce projected to be employed at the new facility and it was representative because there would be no new job categories created. *Id.* at 386. In *Toto Industries*, *supra*, 323 NLRB at 645, the Regional Director found that the employer had hired a substantial and representative complement of employees where, at the time of the hearing, the employer employed 134 employees but expected to

[7] The Employer touts the certainty of its expansion plans. But while the expansion may be certain (as it has been in numerous cases where the Board found the petition not premature), the reliability of the evidence substantiating the Employer's projected hiring needs was speculative and lacking in foundation. As to the speculative nature, the Employer's assessment of the number of future positions outside specific food & beverage venues slated to be opened (such as the steakhouse and Center Bar) was based on predictions about the impact of the renovation on general business volume. VonBargen testified that he "would imagine" that there would be about a four-fold increase in business volume as a result of the renovations, and he based his predictions about much of the hiring based on this assumption. Tr. 53-54. VonBargen could not point to any consultant report, study, or analysis to support his projection, and he admitted he came up with these numbers shortly before the hearing for the purpose of supporting the Employer's case. Tr. 33, 54. He also acknowledged he had never been involved with a property-wide renovation of the type occurring at the Palms. Tr. 52-53. With respect to the lack of foundation, VonBargen presented documents showing that 73 housekeeping positions would need to be filled, but he acknowledged had no involvement in making this assessment and could not attest to its reliability. Tr. 65-66. As the Employer presented no other witness, this portion of the projection lacked any foundation whatsoever. The Regional Director evidently felt no need to comment on the reliability of the Employer's forecasts because—even assuming they are accurate—they do not remotely support dismissing the petition under established Board law. Transcription selections cited herein are attached as Appendix C.

almost double that figure owing to a plant expansion. The employees to be hired would perform essentially the same work and work pursuant to the same or similar terms and conditions of employment. *Id.* at 645-646. In *Re Laurel Assoc., Inc*., 325 NLRB 603 (1998), the Regional Director found that the employer employed a substantial complement of its workforce where it employed 68 employees at the time of hearing but anticipated the need to employ a total of 120 unit employees to staff its operation at full capacity. *Id.* at 603. In *Rheem Mfg. Co*., 188 NLRB 436 (1971), the Board found that an immediate election was warranted because the employer employed a substantial and representative complement of its future workforce. It ruled that "inasmuch as the 34 percent of the contemplated work force was employed in 64 percent of the planned job classifications as of November 6, 1970, the date of the hearing, and since the Employer's projections indicate that as of January 1, 1971, the employee complement will rise to approximately 250 or 55 percent of the contemplated work force, we are satisfied that the employee complement both at the present time and at the time the election will be held is representative and substantial for purposes of directing an immediate election." *Id.* at 437. In *General Cable Corp*., 173 NLRB 251 (1968), the Board found that the current workforce was a substantial and representative where, at the time of the hearing, the employer employed workers constituting 31 percent of the contemplated work force in 50 percent of the planned job classifications. *Id*. at 252 & n. 2. In *Endicott Johnson De Puerto Rico, Inc*., 172 NLRB 1676 (1968), the Board ruled an election was appropriate where the employer would expand from 200 employees working in 115 job classifications to over 500 employees in 250 job classifications. The Board found it immaterial that the number of classifications would more than double because the skills involved across the classifications were similar. *Id*. at 1676-1677.

The cases cited by the Employer in purported support of its position lend further support to the Regional Director's ruling when one actually examines their facts. In *K-P Hydraulics Co*., 219 NLRB 138 (1975), the Board dismissed the petition as premature based on the following facts. At the time of the hearing in February 1975, the employer employed 40 full-time workers and 8 temporary workers across 13 classifications in the manufacture of hydraulic jacks, but was in the process of adding operations to manufacture jacks stands and automobile ramps as well. It projected that by the fall of 1975, it would add an additional 100 employees to reach a total of 140 employees. Moreover, it would eliminate 4 existing classifications and add 20 new classifications. *Id.* at 138. Thus, as of the date of the hearing, the employer employed only 29 percent of its future workforce in only 31 percent of its future classifications. The Board's dismissal of the petition as premature was consistent with analysis that the Regional Director applied to find the petition here timely.

In *Some Industries, Inc*., 204 NLRB 1142 (1973), the Board found a petition premature on the following facts. The employer opened its plant in December 1971 and the union quickly filed an election petition in early 1972. At the time of the hearing in March 1972, the employer employed 34 workers in 9 different classifications. As a result of plans to introduce new production processes and machinery, it anticipated it would add 110 additional workers in 10 to 15 new classifications by October 1973. The Board ruled that the number of employees employed at the time of the hearing was sufficiently substantial (although it constituted only about 24 percent of the future workforce), but found that the work they performed was not sufficiently representative of the broad array of skills and jobs needed for the spectrum of new operations that the employer would introduce. *Id.* at 1142-1143. The Board's dismissal of the petition in *Some Industries* was once again consistent

with the Regional Director's analysis in the present case.

Based on the foregoing, the Employer fails to demonstrate any basis for concluding that the Regional Director departed from officially reported Board precedent in holding an immediate election. Furthermore, the Board should take note of the fact that, even if every one of the projected 234 employees to be hired voted against union representation (an impossibly unlikely scenario), Petitioner would still have won the election by the substantial margin of 511 to 332. Apparently, the Employer hopes that by deferring an election until after September 2019, it might sway a majority in its favor due to the frustration that employees feel by seeing their desire for immediate representation thwarted. That is obviously not the purpose behind the Board's expanding unit doctrine, whatever the Employer's purpose in raising it. To the contrary, the balance of the interest of the Section 7 rights of present and future employees weighed overwhelmingly in favor of an immediate election.

CONCLUSION

For the forgoing reasons, the Employer's Request for Review should be denied.

Dated: May 29, 2018

Respectfully submitted,

/s/Eric B. Myers

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PROOF OF SERVICE
STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO

I am employed in the city and country of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 595 Market Street, Suite 800, San Francisco, CA 94105.

I hereby certify that a true and correct copy of the foregoing document entitled **PETITIONER'S OPPOSITION TO EMPLOYER'S REQUEST FOR REVIEW OF REGIONAL DIRECTOR'S DECISION AND CERTIFICATION OF BARGAINING REPRESENTATIVE** was filed using the National Labor Relations Board on-line E-filing system on the Agency's website and copies of the aforementioned were therefore served upon the following parties via electronic mail on this 29th day of May, 2018 as follows:

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 29, 2018 at San Francisco, California.

/s/Yien San Juan
Yien San Juan

APPENDIX A

FORM NLRB-760
(12-82)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT **Employer** **and** **LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS A/W UNITE HERE INTERNATIONAL UNION** **Petitioner**	Case No: **28-RC-217964** Date Filed: **April 6, 2018** Date Issued: **April 28, 2018** **Type of Election** *(Check One:)* — *(If applicable check Either or Both:)* ☐ Stipulation ☐ 8(b) (7) ☐ Board Direction ☐ Mail Ballot ☐ Consent Agreement ☒ RD Direction Incumbent Union *(Code)*

TALLY OF BALLOTS

The undersigned agent of the Regional Director certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated above, were as follows:

1. Approximate number of eligible voters 910
2. Number of Void ballots 2
3. Number of Votes cast for **PETITIONER** 511
4. Number of Votes cast for _____ XXXXXXX
5. Number of Votes cast for _____ XXXXXXX
6. Number of Votes cast against participating labor organization(s) 98
7. Number of Valid votes counted (sum of 3, 4, 5, and 6) 609
8. Number of Challenged ballots 5
9. Number of Valid votes counted plus challenged ballots (sum of 7 and 8) 614
10. Challenges are (not) sufficient in number to affect the results of the election.
11. A majority of the valid votes counted plus challenged ballots (Item 9) has ~~(not)~~ been cast for **LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS A/W UNITE HERE INTERNATIONAL UNION**

For the Regional Director, Region 28 _____

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For: **FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT**

_____
Howard Brown

For: **LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS A/W UNITE HERE INTERNATIONAL UNION**

_____
Dennis Brown

APPENDIX B

(b) (6), (b) (7)(C)

[redacted]

	BUFFET - 75205	Room Runner	
	CAFE - 75201	Food Server	
	CATERING - 75215	Cook	
	HOUSEKEEPING - 75301	Houseperson	
	HOUSEKEEPING - 75301	Guest Room Attendant	
	ROOM SERVICE - 75214	Cook	
	POOL GRILL - 74275	Model Beverage Server	
	HOUSEKEEPING - 74301	Guest Room Attendant	
	HOUSEKEEPING - 75301	Houseperson	
	HOUSEKEEPING - 74301	Guest Room Attendant	
	CAFE - 75201	Food Server	
	HOUSEKEEPING - 74301	Guest Room Attendant	
	BUFFET - 75205	Cook	
	ROOM SERVICE - 74214	Food Server	
	CATERING - 75215	Cook	
	BUFFET - 75205	Hostperson/Cashier	
	SANITATION - 75216	Kitchen Worker	
	ITALIAN - 75203	Cook	
	BAKERY - 75206	Baker I	
	BARS - 75253	Beverage Server	
	BUFFET - 75205	Hostperson/Cashier	
	BARS - 75253	Beverage Server	
	HOUSEKEEPING - 74301	Guest Room Attendant	
	BUFFET - 75205	Food Server	
	CATERING - 75215	Cook	
	HOUSEKEEPING - 74301	Guest Room Attendant	
	BARS - 75253	Beverage Server	
	ROOM SERVICE - 74214	Food Server	
	BARS - 75253	Beverage Server	
	BUFFET - 75205	Hostperson/Cashier	
	CAFE BEVERAGE - 74269	Bartender	
	CAFE - 75201	Sprinter	
	NOODLE BAR - 75237	Specialty Cook	
	BUFFET - 75205	Room Runner	
	INTERNAL MAINTENANCE - 75419	Porter	
	SANITATION - 75216	Kitchen Worker	
	BUFFET - 75205	Food Server	
	CATERING - 75215	Kitchen Worker	

(b) (6), (b) (7)(C)

[redacted]

(b) (6), (b) (7)(C)

[redacted]

(b) (6), (b) (7)(C)

[redacted]

	HOUSEKEEPING - 75301	Guest Room Attendant
	ROOM SERVICE - 75214	Food Server
	INTERNAL MAINTENANCE - 75419	Porter
	ROOM SERVICE - 75214	Food Server
	SANITATION - 75216	Kitchen Worker
	BUFFET - 75205	Cook
	CAFE - 75201	Food Server
	CAFE - 75201	Bus Person
	CAFE - 75201	Cook
	BARS - 75253	Service Bartender
	SANITATION - 75216	Kitchen Worker
	BUFFET - 75205	Food Server
	BARS - 75253	Beverage Server
	NOODLE BAR - 75237	Food Server
	CATERING - 75215	Banquet Server
	SANITATION - 75216	Kitchen Worker
	SANITATION - 75216	Kitchen Worker
	CATERING - 75215	Banquet Bartender
	CAFE - 75201	Hostperson/Cashier
	CATERING - 75215	Banquet Server
	BAKERY - 75206	Baker I
	HOUSEKEEPING - 75301	Guest Room Attendant
	CAFE - 75201	Food Server
	HOUSEKEEPING - 75301	Guest Room Attendant
	HOUSEKEEPING - 75301	Guest Room Attendant
	NOODLE BAR - 75237	Asian Room Host/Cashier
	CAFE - 75201	Food Server
	CAFE - 74201	Cook
	BUFFET - 75205	Food Server
	CAFE - 75201	Hostperson/Cashier
	NOODLE BAR - 75237	Food Server
	NOODLE BAR - 75237	Specialty Cook
	CATERING - 75215	Banquet Bartender
	TEAM DINING ROOM - 75219	TDR Attendant
	ITALIAN BEVERAGE - 75264	Bartender
	SANITATION - 75216	Kitchen Worker
	CATERING - 75215	Banquet Server
	CAFE - 74201	Food Server

(b) (6), (b) (7)(C)

[redacted]	HOUSEKEEPING - 75301	Guest Room Attendant	[redacted]
[redacted]	BARS - 75253	Bar/Beverage Porter	[redacted]
[redacted]	BUFFET - 75205	Cook's Helper	[redacted]
[redacted]	HOUSEKEEPING - 74301	Guest Room Attendant	[redacted]
[redacted]	HOUSEKEEPING - 74301	Guest Room Attendant	[redacted]
[redacted]	BAKERY - 75206	Baker I	[redacted]
[redacted]	BAKERY - 75206	Baker I	[redacted]
[redacted]	BARS - 75253	Service Bartender	[redacted]
[redacted]	HOUSEKEEPING - 74301	Guest Room Attendant	[redacted]
[redacted]	HOUSEKEEPING - 74301	Guest Room Attendant	[redacted]
[redacted]	BUFFET - 75205	Food Server	[redacted]
[redacted]	HOUSEKEEPING - 75301	Guest Room Attendant	[redacted]
[redacted]	CATERING - 75215	Banquet Porter	[redacted]
[redacted]	HOUSEKEEPING - 75301	Houseperson	[redacted]
[redacted]	BUFFET - 75205	Hostperson/Cashier	[redacted]
[redacted]	INTERNAL MAINTENANCE - 75419	Porter	[redacted]
[redacted]	POOL GRILL - 74275	Model Beverage Server	[redacted]
[redacted]	CATERING - 75215	Cook	[redacted]
[redacted]	HOUSEKEEPING - 75301	Guest Room Attendant	[redacted]
[redacted]	HOUSEKEEPING - 75301	Guest Room Attendant	[redacted]
[redacted]	HOUSEKEEPING - 74301	Guest Room Attendant	[redacted]
[redacted]	CATERING - 75215	Banquet Server	[redacted]
[redacted]	HOUSEKEEPING - 74301	Guest Room Attendant	[redacted]
[redacted]	CATERING - 75215	Cook	[redacted]
[redacted]	BUFFET - 75205	Food Server	[redacted]
[redacted]	ROOM SERVICE - 75214	Bus Person	[redacted]
[redacted]	HOUSEKEEPING - 74301	Guest Room Attendant	[redacted]
[redacted]	VIEW - 75287	The View VIP Bartender	[redacted]
[redacted]	INTERNAL MAINTENANCE - 74419	Porter	[redacted]
[redacted]	BARS - 75253	Bar/Beverage Porter	[redacted]
[redacted]	HOUSEKEEPING - 74301	Status Board	[redacted]
[redacted]	HOUSEKEEPING - 75301	Guest Room Attendant	[redacted]
[redacted]	BARS - 75253	Beverage Server	[redacted]
[redacted]	CATERING - 75215	Cook	[redacted]
[redacted]	INTERNAL MAINTENANCE - 75419	Porter	[redacted]
[redacted]	ITALIAN - 75203	Asst. Food Server	[redacted]
[redacted]	SANITATION - 74216	Kitchen Worker	[redacted]
[redacted]	HOUSEKEEPING - 75301	Guest Room Attendant	[redacted]

(b) (6), (b) (7)(C)

APPENDIX C

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

In the Matter of: **FP HOLDINGS, L.P., d/b/a PALMS CASINO RESORT,** Employer, and **LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS a/w UNITE HERE INTERNATIONAL UNION,** Petitioner.	Case No. **28-RC-217964**

The above-entitled matter came on for hearing pursuant to notice, before **ELISE OVIEDO**, Hearing Officer, at the **National Labor Relations Board, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, Nevada**, on **Monday, April 16, 2018**, at **10:00 a.m.**

1 A. Yes.
2 MS. LIPKIN: We move the admission of Employer's 2.
3 MR. MYERS: May I ask a few questions first?
4 HEARING OFFICER OVIEDO: Yes, voir dire.
5 MR. MYERS: Voir dire.

6 **VOIR DIRE EXAMINATION**

7 Q. BY MR. MYERS: Good afternoon, sir.
8 A. Good afternoon.
9 Q. Did I understand your testimony correctly -- let me
10 start again. When was this document prepared?
11 A. Thursday night into -- and Friday.
12 Q. Thursday night of last week?
13 A. Correct.
14 Q. Was it prepared in anticipation of this hearing today?
15 A. Yes.
16 Q. Did you rely on any documents or studies to prepare this
17 document, or was this based on your --
18 A. Just based on my knowledge of needs and understanding
19 the operations.
20 Q. So, in other words, you didn't enter into this chart,
21 labor forecasts that had been previously performed.
22 Instead, you entered numbers based on your knowledge and
23 experience?
24 A. Correct.
25 MR. MYERS: That's all I have. No objection.

1 A. If it's something consistent, then yes. So I can give
2 you an example if you wish.
3 Q. Sure.
4 A. For instance, we booked the residency and we anticipate
5 2,500 people for 125 shows a year. I would use that
6 methodology, the needs of staff, if I felt that that show
7 catered to the Lucky Penny or café or steakhouse.
8 Q. How long have you worked -- how long did you work at Red
9 Rock prior to working here?
10 A. Seven years.
11 Q. Seven years?
12 A. That's correct.
13 Q. How many times have you been through a renovation where
14 you had to forecast out say a year in advance how many
15 employees would be needed in a year?
16 A. In my career or just at Red Rock?
17 Q. Well, let's start with Red Rock.
18 A. Probably three or four times.
19 Q. What renovations were those?
20 A. The center bar.
21 Q. The center bar at Red Rock?
22 A. That is correct. Hachi, which was a Japanese
23 restaurant.
24 HEARING OFFICER OVIEDO: Could you spell that, please?
25 THE WITNESS: H-a-c-h-i.

1 Q. BY MR. MYERS: So if I'm understanding your responses to
2 those questions, those were specific venues that were going
3 to be -- maybe there used to be a bar there before the
4 center bar. So you're going to renovate that bar and hire
5 in the future; is that right?
6 A. Correct.
7 Q. What about a property-wide renovation such as you're
8 going through here at Palms?
9 A. At Red Rock or at Palms, this would be my first
10 property.
11 Q. Have any of the renovations or any of the I guess
12 forecasting you've been engaged in, in your prior experience
13 involved forecasting the need to hire 273 employees?
14 A. Can you repeat that?
15 Q. Well, have you ever had to forecast the need to hire
16 employees on the order or magnitude we're talking about here
17 today, 273 employees?
18 A. To this magnitude? No.
19 Q. Now, some of the issues that you look at when you
20 forecast out how many you're going to need, how many
21 employees you're going to need, say, for example, in Q4 of
22 '18 or Q1 of '19, what are those factors again? I'm sorry.
23 A. Anticipated business volumes, anticipated nightlife, as
24 well as our entertainment venue, marketing, improved
25 marketing plan, additional hotel rooms.

1 Q. So I think you testified that right now you have about
2 2,500 visitors a day at the Palms?
3 A. Roughly.
4 Q. And you anticipate that you're going to add 8- to 10,000
5 visitors per day to the Palms?
6 A. I would imagine.
7 Q. Okay. Well, you would imagine that, but is that --
8 A. Yes.
9 Q. -- the number that you base your --
10 A. Yes.
11 Q. Let me finish my question, or it's going to be messy on
12 the record. When you say you anticipate a total of 273
13 employees being hired, you forecast that number based on
14 your estimate of 8- to 10,000 new bodies a day coming into
15 the Palms?
16 A. That is correct.
17 Q. And you say that's your imagination. Is that based
18 on --
19 A. No, it's not my imagination.
20 MS. LIPKIN: Objection. That wasn't the witness's word.
21 Q. BY MR. MYERS: I'm sorry. Let me try to understand. Is
22 that based on any survey that's been conducted or market
23 survey or any other kind of study of the expanded business
24 volume?
25 A. No, just my experience.

1 HEARING OFFICER OVIEDO: How do you mean?
2 MS. LIPKIN: The witness didn't testify that he had
3 input into the changes in headcount with respect to anything
4 other than food and beverage operations. The witness did
5 not testify that he determined how the headcount would be
6 modified, if at all, for example, in housekeeping.
7 HEARING OFFICER OVIEDO: Did you have any involvement
8 besides -- of these listed, besides food and beverage, did
9 you have any involvement in the estimation of those numbers?
10 THE WITNESS: None. None in housekeeping or internal
11 maintenance.
12 HEARING OFFICER OVIEDO: Who did?
13 THE WITNESS: It would be Michael South.
14 HEARING OFFICER OVIEDO: And can you please spell that
15 name?
16 THE WITNESS: Michael, M-i-c-h-a-e-l, South, S-o-u-t-h.
17 HEARING OFFICER OVIEDO: And what's his title?
18 THE WITNESS: He's the assistant general manager and
19 vice president of the hotel.
20 HEARING OFFICER OVIEDO: Okay.
21 Q. BY MR. MYERS: I'm sorry. So I misunderstood your
22 testimony before. So with respect to any of the data that's
23 in Employer 3 and Employer 4, you derived the estimates that
24 pertain to food and beverage operations, correct?
25 A. Correct.

1 Q. You did not derive any of the estimates that come with
2 housekeeping operations or any of the other operations other
3 than food and beverage, correct?
4 A. That's correct. Housekeeping and internal maintenance
5 was not my role.
6 Q. So you don't know if they're accurate, do you?
7 MS. LIPKIN: Objection.
8 HEARING OFFICER OVIEDO: I want to hear the answer. You
9 can answer.
10 THE WITNESS: My opinion, do I think they're accurate?
11 I believe they are accurate.
12 HEARING OFFICER OVIEDO: No, not if you think. Do you
13 have any basis --
14 THE WITNESS: No.
15 HEARING OFFICER OVIEDO: Did you have any involvement
16 with those estimations?
17 THE WITNESS: I had no involvement with the estimations.
18 HEARING OFFICER OVIEDO: So you have no basis for
19 knowledge --
20 THE WITNESS: Correct.
21 HEARING OFFICER OVIEDO: -- for those particular ones?
22 THE WITNESS: Correct.
23 Q. BY MR. MYERS: So just -- I think you've said it, but I
24 want to make sure I understand. There are going to be some
25 other management companies, Tao Group and Michael Symon --

1 those anticipated employees are food and beverage employees?
2 THE WITNESS: Looking at the list, it's roughly 200,
3 210, the majority, 190.
4 HEARING OFFICER OVIEDO: 190?
5 THE WITNESS: Yeah, it's roughly 200. For both -- it's
6 close to 200. 200 would be a fair -- a safe answer.
7 HEARING OFFICER OVIEDO: And the 73 dispersed between
8 housekeeping and internal maintenance.
9 THE WITNESS: That's correct. And it could be like 220
10 and 53. I don't know.
11 HEARING OFFICER OVIEDO: Okay.
12 Q. BY MR. MYERS: So let's talk about classifications of
13 employees. As part of the renovations, do you anticipate
14 that the Employer will eliminate any classifications that
15 are currently employees?
16 A. I don't anticipate eliminating any classifications.
17 Q. As part of the renovations, you've mentioned that you're
18 in the process and you may have some further classifications
19 that you are adding. And so could you -- I'd just like to
20 go through very 1-2-3, what are the names of the
21 classifications that you anticipate adding, including if you
22 added any today or recently?
23 A. We've added captain to the steakhouse, and we've added
24 VIP attendant. We've also added baker I, II, and III. That
25 was recently. So those positions do exist. There will be

1 need for additional in the future.
2 Q. Okay. So I want to be clear. So I understand that
3 you'll hire more people in existing classifications, but
4 just for classifications that do not currently exist, we're
5 talking captain and VIP attendant?
6 A. Those would be the two.
7 Q. And are you aware of any other -- again, you're not in
8 housekeeping or internal maintenance, but are you aware of
9 any classifications in those divisions that will be added?
10 A. No, sir.
11 Q. Bad question again. So you're not aware, or you know
12 that there aren't going to be any?
13 A. I'm not aware.
14 Q. So the captain position, is that going to be under
15 supervision of the managers of the steakhouse?
16 A. That is correct.
17 Q. Is that -- are the same managers that manage the
18 captains at the steakhouse going to manage the other food
19 and beverage employees at the steakhouse?
20 A. Yes.
21 Q. Are they going to have the same benefits provided by
22 Palms as does current employees?
23 A. Yes.
24 Q. Has the wage rate been set for that position?
25 A. Yes, it has.

1 **CERTIFICATION**

2 This is to certify that the attached proceedings before
3 the National Labor Relations Board (NLRB), Region 28, in the
4 matter of **FP HOLDINGS, L.P., d/b/a PALMS CASINO RESORT**, Case
5 No. **28-RC-217964**, at Las Vegas, Nevada, on April 16, 2018,
6 was held according to the record, and that this is the
7 original, complete, and true and accurate transcript that
8 has been compared to the recording, at the hearing, that the
9 exhibits are complete and no exhibits received in evidence
10 or in the rejected exhibit files are missing.
11
12
13
14
15
16 _____
17 Natasha Bachman
18 Official Reporter
19
20
21
22
23
24
25

APPENDIX D

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

FP HOLDINGS, L.P., D/B/A PALMS CASINO RESORT

Case No. 28-RC-217964

Employer,

and

LOCAL JOINT EXECUTIVE BOARD OF LAS VEGAS, A/W UNITE HERE INTERNATIONAL UNION,

Petitioner.

STIPULATION BY THE PARTIES

The Employer and Petitioner in the captioned matter hereby stipulate that, following the close of the evidentiary hearing on April 16, 2018, certain events occurred that bear upon the number of employees whom the Employer anticipated at the hearing that it would hire as a result of renovations and who would not have an opportunity to vote in the representation election.

Specifically, the Employer states that, as of the close of the hearing, it anticipated that it would add approximately 273 newly-created positions to its headcount. Because the Decision and Direction of Election did not issue until after the close of the subsequent payroll period, some of those employees had been hired and were eligible to vote in the election. Specifically, 46 employees were hired into positions within the petitioned-for unit. Of those 46 employees, 39 employees were hired into newly-created positions in the: (a) Palms Steakhouse (32 employees); (b) Center Bar (5 employees); and (c) Bakery (2 employees). The remaining 7 employees reflect ordinary turnover within the business. Consequently, as of the date of the election,

approximately 234 employees were projected to be added to the bargaining unit who would not vote in the election.

Petitioner states that it has no evidence to controvert the foregoing. It does not thereby admit that there was sufficient evidentiary support for the Employer's claim that it would ultimately add a total of 273 employees to the unit.

Dated: May 24, 2018

Respectfully submitted,

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Attorneys for Employer

PROOF OF SERVICE
STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO

I am employed in the city and country of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 595 Market Street, Suite 800, San Francisco, CA 94105.

I hereby certify that a true and correct copy of the foregoing document entitled **STIPULATION BY THE PARTIES**was filed using the National Labor Relations Board on-line E-filing system on the Agency's website and copies of the aforementioned were therefore served upon the following parties via electronic mail on this 24th day of May, 2018 as follows:

Cornele Overstreet, Regional Director — *Cornele.Overstreet@nlrb.gov*
National Labor Relations Board, Region 28
300 Las Vegas Boulevard South, Suite 2-901
Las Vegas, NV 89101

Elise Oviedo, Esq. — *Elise.Oviedo@nlrb.gov*
National Labor Relations Board, Region 28
300 Las Vegas Boulevard South, Suite 2-901
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Harriet Lipkin — *Harriet.Lipkin@dlapiper.com*
Kevin Harlow — *Kevin.Harlow@dlapiper.com*
Christine Yang — *Christine.Yang@dlapiper.com*
DLA Piper LLP
500 Eighth Street, NW
Washington, DC 20004

Attorneys for Employer

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 24, 2018 at San Francisco, California.

/s/Yien San Juan
Yien San Juan

From:	Moore, Dawn M.
To:	Lipkin, Harriet; jsoto@local501.org
Subject:	NP PALACE LLC d/b/a PALACE STATION HOTEL & CASINO - Case 28-CA-215326
Date:	Monday, June 18, 2018 6:15:46 PM
Attachments:	image001.png CPT.28-CA-215326.Amended CNOH 6-18-18.pdf

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Please see the attached document.

Dawn M. Moore

Administrative Assistant
Region 28 – Las Vegas Resident Office
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Las Vegas, NV 89101-5833
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NATIONAL LABOR RELATIONS BOARD

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

NP PALACE LLC d/b/a PALACE
STATION HOTEL & CASINO

and **Case 28-CA-215326**

INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 501, AFL-CIO

AMENDED COMPLAINT AND NOTICE OF HEARING

This Amended Complaint and Notice of Hearing is based on a charge filed by the International Union of Operating Engineers, Local 501-AFL-CIO, whose correct name is International Union of Operating Engineers Local 501, AFL-CIO (the Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Sections 102.15 and 102.17 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Palace Station dba NL Palace LLC., whose correct name is NP Palace LLC d/b/a Palace Station Hotel & Casino (Respondent), has violated the Act as described below.

1. The charge in this proceeding was filed by the Union on February 22, 2018, and a copy was served on Respondent by U.S. mail on the same date.

2. (a) At all material times, Respondent has been a limited liability company with an office and place of business in Las Vegas, Nevada (Respondent's facility), and has been engaged in the operation of a hotel and casino, providing gaming, lodging, entertainment, and dining services.

(b) During the 12-month period ending February 22, 2018, Respondent in conducting its operations described above in paragraph 2(a), purchased and received at Respondent's facility goods valued in excess of $50,000 directly from points outside the State of Nevada.

(c) In conducting its operations during the 12-month period ending February 22, 2018, Respondent derived gross revenues in excess of $500,000.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. (a) At all material times, (b) (6), (b) (7)(C) has held the position of (b) (6), (b) (7)(C) and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

(b) At all material times, Respondent's counsels have been agents of Respondent within the meaning of Section 2(13) of the Act.

5. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time slot technicians and utility technicians employed by the [Respondent] at its Las Vegas, Nevada facility; excluding, all other employees, office clerical employees, professional employees, guards, and supervisors as defined in the Act.

(b) On about January 18, 2018, the Regional Director for Region 28 of the Board issued a Certification of Representative, certifying the Union as the exclusive collective-bargaining representative of the Unit.

(c) At all times since about January 18, 2018, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

(d) Since about February 20, 2018, the Union has requested in writing that Respondent furnish the Union with the following information:

(1) A copy of all Employer policies or procedures with respect to discipline. If this information has already been provided, please confirm as such.

(2) When was the last time these policies or procedures with respect to discipline were updated or modified? How long do disciplines last on an employee's record.

(3) A copy of all Employer work rules, house rules or similar kinds of rules. If this information has already been provided, please confirm as such. Please provide all disciplines that are issued months after the incident occurred.

(4) When was the last time these rules were updated or modified?

(5) A statement of all Employer policies or procedures with respect to discipline as well as a statement of all Employer policies or procedures with respect to work rules, house rules and similar rules.

(6) Please provide all disciplines from 2013 to 2018. A list of all employees who have been disciplined (discipline to include oral or written warnings, suspensions or terminations) including the date of the discipline, the nature of the discipline and the reason that the discipline was given (including, but not limited to where the discipline issued for: theft, dishonesty, insubordination, parking in a designated emergency or handicap zone, using foul or abusive language, giving or taking a bribe, failing to report to work, neglect of duty, physically fighting, altering another employee's timesheet, carrying a concealed weapon, engaging in harassment, sleeping on duty, falsification of any sort, failure to cooperate in the course of an

investigation, engaging in unethical conduct, failing to wear provided safety equipment). Please list all employees who have engaged in conduct for which the Employer has considered discipline but has not actually given discipline including the name of the employee, the date of the incident the nature of the discipline considered and the reason the discipline was not imposed.

(7) Please provide copies of all "production standards" to which employees will be held, or be subjected to discipline.

(8) Please list the "illegal drugs" and "controlled substances" included by the Employer.

(e) The information requested by the Union, as described above in paragraph 5(d), is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(f) Since about February 21, 2018, Respondent, by its counsel, in writing, has failed and refused to furnish the Union with the information requested by it as described above in paragraph 5(d).

6. By the conduct described above in paragraph 5, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act in violation of Section 8(a)(1) and (5) of the Act.

7. The unfair labor practice of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

The Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to this complaint. The answer must be **received by this office on or before July 2, 2018, or postmarked on or before**

June 30, 2018. Respondent should file an original copy of the answer with this office. Respondent should serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **File Case Documents,** enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on October 2, 2018, at the Hearing Room, National Labor Relations Board, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, Nevada, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Phoenix, Arizona, this 18th day of June 2018.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director

Attachments

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 28-CA-215326

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

(1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).

(2) Grounds must be set forth in ***detail***;

(3) Alternative dates for any rescheduled hearing must be given;

(4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and

(5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

NP Palace LLC d/b/a
Palace Station Hotel & Casino
2411 West Sahara Avenue
Las Vegas, NV 89102-4377

Harriet Lipkin, Attorney at Law
DLA Piper LLP (US)
500 8th Street NW
Washington, DC 20004-2131

Jose Soto, Director of Organizing
International Union of Operating Engineers
Local 501, AFL-CIO
301 Deauville Street
Las Vegas, NV 89106-3998

Form NLRB-4668
(6-2014)

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative**. If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlrb.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlrb.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.

- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence**: At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits: Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing.

If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts**: An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.

- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

- **Date for Filing Post-Hearing Brief**: Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.

- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.

- **Exceptions to the ALJ's Decision**: The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.