



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

September 27, 2018

Maile Lani T. Esteban, Attorney at Law
7000 Smoke Ranch Road, Suite C
Las Vegas, NV 89128

Re: Southern Nevada Teamsters Local 631
Convention Training Center (Various
Employers)
Case 28-CB-222491

Dear Ms. Esteban:

We have carefully investigated and considered your client's charge that Southern Nevada Teamsters Local 631 Convention Training Center (the Charged Party) has violated the National Labor Relations Act (the Act).

Decision to Dismiss: Based on that investigation, I have decided to dismiss your client's charge for the reasons discussed below.

The charge alleges that the Charged Party is a labor organization and that it engaged in unfair labor practices within the meaning of Section 8(b)(1)(A) of the Act by restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, by its actions, including, but not limited to, breaching its duty of fair representation by denying your client apprenticeship opportunities and training for arbitrary, capricious, or unlawful reasons, and, by these and other acts, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act.

The Charged Party is a jointly-administered trust formed by International Brotherhood of Teamsters, Local 631 (the Union) and various employers in accordance with Section 302(c)(5) of the Labor Management Relations Act.

The Board has held that a jointly-administered trust will be found to be the agent, through its union-appointed trustees, of a labor organization only where the facts demonstrate that the union is in "de facto control of a nominally independent trust fund." *Layman's Market*, 268 NLRB 780 (1984). The Board has held that the actions of a jointly-administered trust can be attributed directly to a union in at least three situations: (1) when provisions of a collective-bargaining agreement impinge on the trustees' duty to administer the funds solely for the benefit of the employees; (2) when the trustees' actions are in fact directed by union officials; or (3) when the trustees' acts are undertaken in their capacities as union officials rather than as trustees. See *Service Employees Local 1-J (Shor Co.)*, 273 NLRB 929, 931 (1984); see also *Griffith Corp.*

v. *NLRB*, 660 F.2d 406, 410 (9th Cir. 1981), cert. denied 457 U.S. 1105 (1982). Ordinarily, the Board proceeds on the premise that a trustee is *not* acting for the appointing union (or employer) unless contrary evidence shows otherwise. See *Commercial Property Services*, 304 NLRB 134 (1991); *Electrical Workers, Local 429*, 357 NLRB 332, 334 (2011).

Here, although your client contends the Charged Party breached its duty of fair representation by denying apprenticeship opportunities and training when it refused to journey (b) (6), (b) from the Charged Party's apprenticeship program, the evidence does not support a finding that the Union took any action against your client. Instead, the Charged Party decided your client was not eligible to journey out. The evidence does not suggest the Charged Party acted as agent for the Union (or for the employers) under any of the three situations described above. Moreover, even had there been evidence the Charged Party acted as the Union's representative with respect to your client's apprenticeship opportunities and training when denying (b) (6), (b) request to journey out, the Charged Party followed its Policies and Procedures Manual in making its decision.

In these circumstances, I cannot find that the Charged Party's decision not to Journey your client out from the apprenticeship program was arbitrary, discriminatory or in bad faith, breached the duty of fair representation that unions hold toward the employees they represent, or amounted to an unfair labor practice within the meaning of Section 8(b)(1)(A) of the Act, as alleged. I am, therefore, refusing to issue complaint in this matter.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **October 11, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a

delivery service no later than **October 10, 2018**. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before October 11, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after **October 11, 2018, even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: Bryce C. Loveland, Attorney at Law
Brownstein Hyatt Farber Schreck, LLP
100 N City Pkwy Ste 1600
Las Vegas, NV 89106-4614

Nicholas R. Santucci, Attorney at Law
Brownstein Hyatt Farber Schreck, LLP
410 17th St.,
Ste. 2200
Denver, CO 80202-4432

Southern Nevada Teamsters Local 631
Convention Training Center (Various
Employers)
Case 28-CB-222491

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September 27, 2018

Michael A. Freimann, Attorney at Law
Brownstein Hyatt Farber Schreck, LLP
410 Seventeenth Street ,Suite 2200
Denver, CO 80202

Southern Nevada Teamsters Local 631
Convention Training Center
4490 Nexus Way Ste 102
Las Vegas, NV 89115-1847

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

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September 28, 2018

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

Re: Bartenders Union Local 165 Unite Here
(Mandalay Bay, LLC)
Case 28-CB-222687

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that Bartenders Union Local 165 Unite Here has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

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Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: Bartenders Union Local 165 Unite Here
4825 West Nevso Drive
Las Vegas, NV 89103-3787

Bartenders Union Local 165 Unite Here
(Mandalay Bay, LLC)
Case 28-CB-222687

- 3 - September 28, 2018

Ashley G. Eddy, Attorney at Law
MGM Resorts, Inc.
840 Grier Drive, Suite 200
Las Vegas, NV 89119

Mandalay Bay, LLC
3950 South Las Vegas Boulevard
Las Vegas, NV 89119

CAO/CJD/mhz



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September 28, 2018

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

Re: Culinary Workers Union, Local 226
(Wynn Las Vegas LLC)
Case 28-CB-224495

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that Culinary Workers Union, Local 226 has violated the National Labor Relations Act (the Act).

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

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Very truly yours,

Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: See next page.

Culinary Workers Union Local 226
(Wynn Las Vegas LLC)
Case 28-CB-224495

- 3 -

September 28, 2018

cc: Richard G. McCracken, Attorney at Law
McCracken, Stemerma & Holsberry, LLP
1630 South Commerce Street, Suite A-1
Las Vegas, NV 89102-2705

Culinary Workers Union Local 226
1630 South Commerce Street
Las Vegas, NV 89102-2700

Gregory J. Kamer, Attorney at Law
Kamer Zucker Abbott
3000 West Charleston Boulevard, Suite 3
Las Vegas, NV 89102-1990

Wynn Las Vegas, LLC
3131 Las Vegas Boulevard South
Las Vegas, NV 89115

CAO/CJG/sebj



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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

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

September 18, 20018

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

Re: United Government Security Officers of
America, Local 357 (affiliated with United
Government Security Officers of America
International Union) (The J. Diamond
Group, Inc. d/b/a The Diamond Group, a
subsidiary of SecTek, Inc.)
Case 28-CB-225055

Dear (b) (6), (b) (7)(C):

We have carefully considered your charge that United Government Security Officers of America International Union (the Union) has violated the National Labor Relations Act (the Act).

Decision to Dismiss: In view of your lack of cooperation in investigating this case, I have determined that further proceedings are not warranted at this time and I am dismissing your charge.

On August 8, 2018, the Board agent assigned to investigate your charge contacted you for the purpose of making arrangements to obtain your evidence in support of your charge. An appointment to provide your evidence was scheduled for August 16, 2018, but you failed to attend the meeting and failed to notify the Board agent that you could not make your scheduled appointment. The Board agent contacted you on August 16, 2018, and your appointment was rescheduled for August 17, 2018. You failed to attend this appointment and failed to notify the Board agent that you needed to reschedule it.

On August 17, 2018, by letter, the Board agent requested that you contact the Albuquerque Resident Office by August 21, 2018 for the purpose of providing your evidence, including witnesses whom you wished to present for the investigation. You responded to the letter by email indicating you would try to meet in the office on Tuesday, August 21, 2018. You did not appear for this appointment nor did you present the requested evidence on that date. Since August 16, 2018, you have failed to attend your scheduled appointments and you have not provided any evidence in support of your charge.

It is incumbent upon an individual filing a charge to cooperate with its investigation. It is apparent that you are unable or unwilling to be interviewed at this time. Under these circumstances, it is not possible for this office to obtain the necessary information to process your charge. If, at some future date, you wish to refile this charge when you can cooperate in the investigation, you may do so. However, your attention is directed to Section 10(b) of the Act which provides that a charge must be filed with the NLRB and served on the charged party within six months of the conduct alleged to be unlawful.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

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Appeal Due Date: The appeal is due on **October 2, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than **October 1, 2018**. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

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United Government Security Officers of
America, Local 357 (affiliated with United
Government Security Officers of America
International Union) (The J. Diamond
Group, Inc. d/b/a The Diamond Group, a
subsidiary of SecTek, Inc.)
Case 28-CB-225055

- 3 -

September 18, 2018

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Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: United Government Security Officers of America,
Local 357 (affiliated with United Government
Security Officers of America International Union)
2879 Cranberry Highway
East Wareham, MA 02538

The J Diamond Group, Inc. d/b/a
The Diamond Group, a subsidiary of SecTek, Inc.
120 South Federal Place
Santa Fe, NM 87050

CAO/BJ/sebj