

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ATLAS REFINERY, INC.,

Respondent,

and

Case 22-CA-28403

LOCAL 4-406, UNITED STEEL, PAPER AND FORESTRY, RUBBER,
MANUFACTURING, ENERGY, ALLIED, INDUSTRIAL
AND SERVICE WORKERS INTERNATIONAL UNION, AFL-CIO,

Charging Party.

**GENERAL COUNSEL'S ANSWERING BRIEF TO THE EXCEPTIONS AND
EXCEPTIONS BRIEF FILED BY THE RESPONDENT**

General Counsel points out first that Respondent has not filed exceptions and a brief in support of exceptions consistent with Board rules. Respondent's Brief only addressed its Exceptions concerning conclusions of law. The Brief did not address most of its Exceptions which pertained to the ALJ's factual findings. In the Exceptions document itself, in reference to disputed factual findings, Respondent merely cites to various pages in the transcript. But nowhere did Respondent supply any reasoning why the facts it disputed should be revised. Accordingly, its Exceptions as to factual findings were unsupported.

Respondent's Brief in Support of Exceptions is organized by the ALJ's legal conclusions that Respondent argues were incorrect. But Respondent tries to support its proffered legal conclusions with facts that are not in the record and without supporting citations to the record. For example, there was no record evidence and Respondent does not cite to record evidence that Jeff "Gilliam defrauded Atlas of compensation he had no

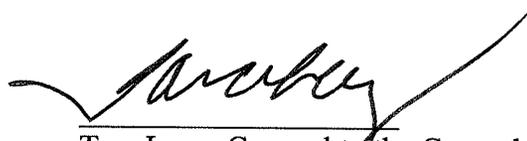
legal right to receive,” Respondent’s Exception Brief at p. 15, thereby, in the eyes of the Respondent, relieving the Employer of its duty to bargain with the Union as long as the Union negotiating committee included Gilliam.

In other respects, Respondent’s arguments in its Brief ignore longstanding Board law as to fundamental matters such as agency, lockout, impasse and unlawful discharge. Thus, Respondent’s Brief in Support of Exceptions contains no reasoning sufficiently supported by record facts or applicable law.

Accordingly, the Board should not modify the ALJD to substitute any of the facts disputed by Respondent in its Exceptions, or the legal conclusions disputed in the Respondent’s Brief in Support of Exceptions. General Counsel again urges the Board, order to fully remedy the conduct of the Respondent, to modify the ALJD consistent with the Exceptions filed by the General Counsel, and the Exceptions filed by the Charging Party to the extent that these were consistent with those of the General Counsel.

Respectfully submitted,

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