

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

**WYNN LAS VEGAS, LLC**

**Case No. 28-CA-22818  
JD(SF)-52-10**

**and**

**RONDA LARSON, an Individual**  
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**WYNN LAS VEGAS, LLC'S EXCEPTIONS TO THE  
DECISION OF THE ADMINISTRATIVE LAW JUDGE**

Pursuant to Section 102.46 of the National Labor Relations Board's Rules and Regulations, Respondent Wynn Las Vegas, LLC (hereinafter "Respondent" or "Wynn"), by and through its counsel of record, the law firm of Kamer Zucker Abbott, hereby files its exceptions to the Decision of Administrative Law Judge James M. Kennedy (hereinafter "ALJ") issued in this case on December 14, 2010. Wynn excepts to the following particulars:

1. To the ALJ's finding and conclusion that, on September 1, 2006, Respondent redefined the duties of the floor supervisor as nonsupervisory. (Decision at 3, ll. 13-15).
2. To the ALJ's finding and conclusion that the contract remains unsigned and partially implemented. (Decision at 4, ll. 20-23).
3. To the ALJ's finding and conclusion that Larson and Sackin's appearance on the Labor Commissioner witness list "triggered the instant matter." (Decision at 4, ll. 31-33).
4. To the ALJ's finding and conclusion that Larson had been "outspoken" and "had taken a leadership role in the token pool litigation." (Decision at 4, ll. 34-35).
5. To the ALJ's finding and conclusion that Larson verbally opposed Wynn's token pooling practice during a meeting with Wynn's president in September 2006. (Decision at 4, ll. 38-41; Decision at 9, l. 36; Decision at 16, l. 42 – 17, l. 1).

6. To the ALJ's finding and conclusion that Larson "openly and visibly" collected money for litigation against Wynn. (Decision at 4, l. 50 – 5, l. 1; Decision at 9, ll. 35-38; Decision at 17, ll. 1-3).

7. To the ALJ's finding and conclusion that Sackin "served picket duty for the Union." (Decision at 5, ll. 14-15).

8. To the ALJ's finding and conclusion that Lancaster stood behind the seated Sackin taking notes, and that Sackin could never really look at him. (Decision at 5, ll. 39-40).

9. To the ALJ's finding and conclusion that Sackin being the only employee interviewed is "most illuminating" based on what followed. (Decision at 6, ll. 17-19).

10. To the ALJ's finding and conclusion that the interview of Sackin had any bearing on his subsequent discipline. (Decision at 6, ll. 18-19).

11. To the ALJ's finding and conclusion that the surveillance department catches "small errors" and no disciplinary action is taken against the employee unless the error persists and both the dealer and the manager sign off on the acknowledgment and it is scanned into the employee's electronic file. (Decision at 6, ll. 24-31).

12. To the ALJ's finding and conclusion that once a dealer receives two to three procedural game warnings, the employee then arrives at the next disciplinary step, a verbal acknowledgement that is scanned into the employee's electronic file, and that Respondent does not consider this to be part of the progressive disciplinary system since these first two steps do not go into the dealer's human resources department file, but are maintained in the table games department employee file. (Decision at 6, ll. 31-34).

13. To the ALJ's finding and conclusion that for clarity he revised the order of Ms. Collura's testimony. (Decision at 6, l. 48).

14. To the ALJ's finding and conclusion that Respondent's disciplinary steps shown in the table games department file are not part of the discipline system unless the error costs a large loss to the house. (Decision at 6, ll. 52 -53).

15. To the ALJ's finding and conclusion that the first written and second written warnings are more often directed to behavior rule violations. (Decision at 6, l. 53 – 7, l. 1).

16. To the ALJ's reliance on the Counsel for the General Counsel's evidence of employee discipline, while failing to consider Respondent's evidence of additional employee discipline. (Decision at 7, n.12; Decision at 19, ll. 28-30).

17. To the ALJ's finding and conclusion that the documented procedural violations Sackin incurred were "overkill." (Decision at 8, ll. 28-30).

18. To the ALJ's mischaracterization of Collura's testimony when referring to Sackin as "half-dressed." (Decision at 8, ll. 28-31, n.13).

19. To the ALJ's finding and conclusion that much of the description of Sackin's various violations is on the "florid side, clearly an effort to characterize [his] conduct as worse than it was." (Decision at 8, ll. 30-32).

20. To the ALJ's finding and conclusion that Sackin informed Collura his cell phone number had changed, that she made a note of that change, and Collura neglected to inform her secretary of the change. (Decision at 8, ll. 40-42).

21. To the ALJ's finding and conclusion that Sackin was "trying to do the right thing" by entering the casino through the guest entrance and running to his work station. (Decision at 9, ll. 14-16).

22. To the ALJ's finding and conclusion that Larson was "heavily involved in the 2009 Labor Commissioner hearing." (Decision at 9, ll. 40-45).

23. To the ALJ's finding and conclusion that Larson's written warning for her dealing mistakes was "not consistent" with the disciplinary practices of Respondent. (Decision at 10, ll. 18-21; Decision at 17, ll. 20-21).

24. To the ALJ's finding and conclusion that Larson was "entirely unaware" of her episodes of misconduct. (Decision at 10, ll. 33-35).

25. To the ALJ's finding and conclusion that the customers "never made any complaints at the time of the so-called incident." (Decision at 10, ll. 42-43).

26. To the ALJ's finding and conclusion that Larson's interaction with Corsaro would have been "ignored." (Decision at 10, ll. 46-48).

27. To the ALJ's finding and conclusion that Wynn's attempts to obtain a customer statement were "extraordinary." (Decision at 11, ll. 4-7).

28. To the ALJ's finding and conclusion that Sarant and Sell "could barely recall" what the incident between Larson and the customers was about and found it "inconsequential." (Decision at 11, ll. 30-33; Decision at 17, ll. 41-42).

29. To the ALJ's finding and conclusion that the temporal proximity of Sackin's participation in the Labor Commissioner hearings and his discipline was "suspect." (Decision at 15, ll. 15-17).

30. To the ALJ's finding and conclusion that Sackin was "terminated." (Decision at 15, ll. 22-23, 28-31).

31. To the ALJ's finding and conclusion that Sackin's "degree of punishment" was not supported by the facts. (Decision at 15, ll. 29-30).

32. To the ALJ's finding and conclusion that Sackin's "discharge" was due to Respondent's animus against protected activity. (Decision at 15, ll. 30-31).

33. To the ALJ's finding and conclusion that Sackin broke some "minor rules." (Decision at 15, ll. 34-36).

34. To the ALJ's finding and conclusion that "none of [Sackin's] infractions . . . jeopardize[d] the integrity or security of the casino" or affected "Wynn's decorum concerns." (Decision at 15, ll. 37-39).

35. To the ALJ's finding and conclusion that Respondent "stitch[ed]" the surveillance video together to document Sackin's violations. (Decision at 15, ll. 45-46).

36. To the ALJ's finding and conclusion that Respondent "trump[ed] up" Sackin's violations in order to subject Sackin to discipline. (Decision at 15, ll. 50-51).

37. To the ALJ's finding and conclusion that Sackin was disciplined in violation of Section 8(a)(1) and (3) of the Act. (Decision at 16, ll. 27-28).

38. To the ALJ's finding and conclusion that the Larson incident with the customers was "overblown." (Decision at 17, l. 29).

39. To the ALJ's finding and conclusion that Larson's comment about smoking was "no reflection upon Respondent." (Decision at 17, ll. 31-34).

40. To the ALJ's finding and conclusion that Larson was a credible witness with a "generally good-humored personality." (Decision at 18, n.22, ll. 44-45).

41. To the ALJ's finding and conclusion that Larson was not insubordinate in refusing to follow Corsaro's instruction. (Decision at 18, ll. 25-26).

42. To the ALJ's finding and conclusion that Corsaro did not have the "authority" to issue orders to Larson. (Decision at 18, n.23, ll. 46-47).

43. To the ALJ's finding and conclusion that the discipline Larson received was "far greater than warranted." (Decision at 18, l. 37).

44. To the ALJ's finding and conclusion that Larson committed "relatively minor" infractions. (Decision at 18, ll. 2-4).

45. To the ALJ's finding and conclusion that Respondent denied Larson access to a Weingarten representative. (Decision at 19, ll. 7-8).

46. To the ALJ's finding and conclusion that the evidence did not demonstrate that Larson was rude and insubordinate. (Decision at 19, ll. 21-23).

47. To the ALJ's finding and conclusion that Respondent discharged Larson in violation of Section 8(a)(3) and (1) of the Act. (Decision at 20, l. 7).

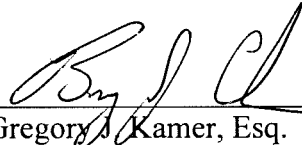
48. To the ALJ's recommended remedy and Order with respect to the elements of the Complaint not dismissed by the ALJ. (Decision at 20, ll. 13-40; Decision at 21, l. 14 – 22, l. 24).

DATED this 11<sup>th</sup> day of February, 2011.

Respectfully submitted,

KAMER ZUCKER ABBOTT

By:

  
\_\_\_\_\_  
Gregory J. Kamer, Esq.  
Nevada Bar No. 0270  
Bryan J. Cohen, Esq.  
Nevada Bar No. 8033  
3000 West Charleston Blvd., Suite 3  
Las Vegas, NV 89102  
Tel: (702) 259-8640  
Fax: (702) 259-8646

Attorneys for Respondent  
Wynn Las Vegas, LLC

**CERTIFICATE OF SERVICE**


This is to certify that on the 11<sup>th</sup> day of February, 2011, the undersigned, an employee of Kamer Zucker Abbott, electronically filed the foregoing Wynn Las Vegas, LLC's Exceptions to the Decision of the Administrative Law Judge, via the National Labor Relations Board E-Gov Electronic Filing system, and placed a copy of the Exceptions in the United States mail, postage prepaid, and addressed as follows:

Stephen E. Wamser, Resident Officer  
National Labor Relations Board  
Region 28  
600 Las Vegas Blvd. South, Suite 400  
Las Vegas, Nevada 89101

Mara-Louise Anzalone, Esq.  
Counsel for the General Counsel  
National Labor Relations Board  
Region 28  
2600 North Central Avenue, Suite 1800  
Phoenix, Arizona 85004

Ms. Ronda Larson  
4917 Souza Drive  
Las Vegas, Nevada 89146

By:



An employee of Kamer Zucker Abbott