UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AGGREGATE INDUSTRIES

and **Cases 28-CA-23220**
28-CA-23250

TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS,
LOCAL 631, affiliated with INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

COUNSEL FOR THE GENERAL COUNSEL'S EXCEPTIONS TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE

Counsel for the Acting General Counsel (General Counsel), pursuant to Section 102.46 of the Board's Rules and Regulations, files the following Exceptions to Administrative Law Judge Burton Litvack's Decision, [JD(SF)-13-11] (ALJD), issued on June 6, 2011, in this matter:

1. The Administrative Law Judge's (ALJ) failure to find that Respondent's actions constituted a change in the scope of an established unit. In support of this exception, the General Counsel relies upon the testimony of Sean Stewart (Tr. 50-210; 360-363; 368-529), Dwayne Darr (Tr. 251-342), Dean Mulvaney (Tr. 343-354), Phillip Willars (Tr. 355-359), Larry Miller (Tr. 530-539), Dana Wiggins (Tr. 540-551), and the record exhibits associated therewith.

2. The ALJ's finding that Respondent bargained to impasse over the change in the assignment of work. Included in this exception is the ALJ's finding that the Union waived its right to bargain over the matter, and the ALJ's finding that Respondent did not present its proposal to the Union as a fait accompli. In support of this exception, the General Counsel relies upon the testimony of Sean Stewart (Tr. 50-210; 360-363; 368-529), Dwayne Darr (Tr. 251-

342), Dean Mulvaney (Tr. 343-354), Phillip Willars (Tr. 355-359), Larry Miller (Tr. 530-539), Dana Wiggins (Tr. 540-551), and the record exhibits associated therewith.

3. The ALJ's failure to find that Respondent engaged in direct dealing in October 2010 by meeting directly with unit employees, presenting its wage transition proposal to them, and thereafter placing a copy of the wage proposal in employees' mailboxes and requiring them to return a copy to Respondent if they wanted to continue working. In support of this exception, the General Counsel relies upon the testimony of Sean Stewart (Tr. 50-210; 360-363; 368-529), Dwayne Darr (Tr. 251-342), Dean Mulvaney (Tr. 343-354), Phillip Willars (Tr. 355-359), and the record exhibits associated therewith.

4. The ALJ erred in failing to analyze the General Counsel's arguments regarding Respondent's defenses, including the General Counsel's analysis as to whether an accretion occurred, and whether Respondent was required to preserve the status quo in both units. In support of this exception, the General Counsel relies upon the testimony of Sean Stewart (Tr. 50-210; 360-363; 368-529), Dwayne Darr (Tr. 251-342), Dean Mulvaney (Tr. 343-354), Phillip Willars (Tr. 355-359), Larry Miller (Tr. 530-539), Dana Wiggins (Tr. 540-551), and the record exhibits associated therewith, including Respondent's Answer. (GC. 1(j))

Dated at Phoenix, Arizona, this 2nd day of August, 2011.

Respectfully submitted,

/s/ John T. Giannopoulos

John T. Giannopoulos
Counsel for the Acting General Counsel
National Labor Relations Board, Region 28
2600 North Central Avenue, Suite 1800
Phoenix, AZ 85004-3099
Telephone: (602) 640-2123
Facsimile: (602) 640-2178
John.Giannopoulos@nlrb.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of COUNSEL FOR THE GENERAL COUNSEL'S EXCEPTIONS TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE in AGGREGATE INDUSTRIES, Cases 28-CA-23220 et al., was served by E-Gov, E-Filing, E-Mail and Overnight Delivery via United Parcel Service, on this 2nd day of August 2011, on the following:

Via E-Gov, E-Filing:
Lester A. Heltzer, Executive Secretary
Office of the Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Via E-Mail:
James T. Winkler, Attorney at Law
Littler Mendelson
3960 Howard Hughes Parkway, Suite 300
Las Vegas, NV 89101
E-Mail: jwinkler@littler.com

Patrick Domholdt, Attorney at Law
Teamsters Local Union No. 631
700 North Lamb Boulevard
Las Vegas, NV 89110
E-Mail: patrickd@teamsters631.com

Richard G. McCracken, Attorney at Law
McCraken, Stemerman & Holsberry
1630 South Commerce Street, Suite A-1
Las Vegas, NV 89102
E-Mail: rmccracken@dcbsf.com

Via Overnight Delivery:
Aggregate Industries
3101 East Craig Road
North Las Vegas, NV 89030

International Brotherhood of Teamsters, Local No. 631
700 North Lamb Boulevard
Las Vegas, NV 89110
E-Mail: johnp@teamsters631.com

/s/ Katherine A. Stanley
Katherine A. Stanley
Secretary to the Regional Attorney
National Labor Relations Board, Region 28
2600 North Central Avenue, Suite 1800
Phoenix, AZ 85004
Telephone (602) 640-2163