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September 17, 2012

VIA OVERNIGHT DELIVERY

Lester A. Heltzer, Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570-0001

Re: Request for Review from Decision and Direction of Election in Case 27-RC-085144

Dear Mr. Heltzer,

Please find attached the Employer's Request for Review in the above-captioned matter. Pursuant to the National Labor Relations Board's regulations, enclosed is the original request with seven copies.

Sincerely,


Brett A. Harvey
Employment Attorney
Standard Parking Corporation

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NLRB
ORDER SECTION

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

STANDARD PARKING CORPORATION,

Respondent

and

Case 27-RC-085144

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS LOCAL UNION NO. 455,

REQUEST FOR REVIEW

Petitioner

**STANDARD PARKING CORPORATION'S REQUEST FOR REVIEW OF THE
REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION**

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I. INTRODUCTION

Standard Parking Corporation (“Standard Parking” or the “Company”) requests that the National Labor Relations Board (“NLRB” or the “Board”) review the Decision and Direction of Election issued by the Regional Director for Region 27 (the “Region”) on September 6, 2012 (the “Decision,” attached as Exhibit A). Review of the Decision is appropriate pursuant to Section 102.67 of the Board’s Rules and Regulations because: (1) substantial questions of law and policy are raised because of the Regional Director’s departure from officially reported Board precedent (Section 102.67(c)(1)); (2) the Regional Director’s determinations on substantial factual issues were clearly erroneous on the record, and such errors prejudicially affected the Company’s rights (Section 102.67(c)(2)); and (3) the conduct of the hearing and rulings made in connection with the proceeding has resulted in prejudicial error (Section 102.67(c)(3)).

In this case, the Regional Director’s pre-hearing conduct and unwillingness to permit the Company a brief extension of the hearing date severely prejudiced Standard Parking and deprived the Company of due process and the ability to adequately present its case. Notwithstanding the procedural obstacles, the Regional Director’s factual determinations are clearly erroneous and not supported by the record. Specifically, the Company’s witnesses consistently testified that the employees in question perform supervisory duties and, therefore, the Company established that they are supervisors under Section 2(11) of the National Labor Relations Act (the “Act”). Finally, in concluding that the Company’s employees are not statutory supervisors, the Regional Director departed from firmly established Board precedent. Based on these deficiencies, the Company requests that the grant its Request for Review, reverse the Regional

Director's decision and find that the employees at issue are supervisors under Section 2(11).

II. PRELIMINARY STATEMENT

On July 12, 2012, the International Brotherhood of Teamsters, Local 455 (the "Union" or "Local 455") filed a petition pursuant to Section 9(c) of the National Labor Relations Act to represent certain supervisors who work at Standard Parking Corporation's ("Standard Parking" or the "Company") operations at Denver International Airport ("DIA"). The NLRB sent DIA General Manager Isaac Kilgore a letter dated July 13, 2012, to notify him and the Company that it scheduled a hearing on Monday, July 23, 2012. However, Mr. Kilgore was out of town from July 4 through July 18, 2012.

On July 17, 2012, NLRB Investigator Isabel Saveland contacted the Company's in-house labor counsel and advised that the hearing was scheduled for July 23, 2012. On Wednesday, July 18, 2012, the Company's counsel requested a brief extension of the hearing due to scheduling conflicts and considering the extremely short notice the Region gave the Company. For reasons that were not explained, the Regional Director denied the Company's request for a simple extension.

Throughout the Company's conversations with the Region and continuing on Thursday, July 19, 2012, the Company requested that the Region identify the specific employee group or groups that the Union wanted to represent. As of that date, the investigator had informed the Company only that the Union's petition sought to represent "supervisors," but did not know which supervisors were at issue. At that point, based on conversations with the investigator, the Company understood "supervisors" to mean the Company's Lane Supervisors. The clarification of "supervisors" was critical to the

Company's preparation for the case because there are five supervisor classifications at DIA.

Finally, on Friday, July 20, the last business day before the hearing, the Region informed the Company that the Union was seeking to represent LPI Supervisors, Lane Supervisors, Traffic Supervisors, Finance Supervisors and Audit Supervisors. Given the expansion of employee groups from one to five, the Region placed the Company at an extreme disadvantage for the impending hearing. Specifically, the four additional employee classifications would require the Company to present various witnesses and documents of which the Company was previously unaware and it had to do so with less than one business day of notice.

Considering the significantly expanded scope of the representation hearing, the Company notified the Region of its significant concerns and the prejudice caused by such late notice that the hearing would cover five employee groups. The NLRB responded that, "because of the late date," the Regional Director was "not willing" to postpone the hearing. Thus, the Regional Director appeared to attribute her own office's delay in informing the Company of the scope of the hearing to the Company and refused the Company's reasonable request for a postponement. Since the employees at issue in the petition are supervisors, the Company would not stipulate to an election.

On July 23, 2012, Board hearing officer Isabel Saveland conducted the Representation Hearing in Denver, Colorado¹. At the outset of the hearing, the Company objected to the hearing going forward in light of "the Board's refusal to grant a reasonable postponement to allow the company to properly prepare" for the hearing. Tr. 7. Moreover, the Company argued that:

¹ A copy of the transcript is attached as Exhibit B.

“the NLRB’s failure to provide the job classifications at issue today until the day before the hearing and the unreasonable refusal to provide a modest extension of time to prepare for the case is extremely prejudicial to the company’s position. Because of the late notice, the company cannot bring witnesses who would testify to the duties performed by supervisors at Denver International Airport, thereby placing the company at a significant disadvantage in a case with far reaching consequences. The circumstances surrounding this case place the company in a position that it cannot fairly or thoroughly present its case.” Tr. 8-9.

Notwithstanding the Company’s objections, the Company and the Union presented evidence in support of their respective positions in a one-day hearing, then submitted post-hearing briefs. The Regional Director issued a Decision and Direction of Election on or about September 6, 2012, finding that the employees in question are not supervisors who are excluded from coverage of the National Labor Relations Act (the “Act”).

III. ARGUMENT

A. The Record Establishes that the Company’s Supervisors Are Vested with Supervisory Authority and that they Exercise that Authority.

1. The Company’s Operations

Standard Parking is one of the nation’s leading parking facility management and transportation services companies. The Company operates in 42 states and several Canadian provinces. Standard Parking does not own any parking facilities, but manages each facility for the benefit of its owner, or the Company’s “client.” In this case, the Company’s client at DIA is the City of Denver, Colorado (the “City”). Standard Parking has managed DIA’s parking facilities since late 2008. The Company manages the parking facilities consisting of eight lots at DIA on behalf of the City and operates at DIA pursuant to a contract with the City.

Standard Parking's operational structure at DIA starting with the highest level of authority is as follows: General Manager, Assistant General Manager, Operations Manager, Supervisor, front line employees. The job duties and classifications for front line employees are dictated by operational necessity. Accordingly, the Company employs cashiers to take payment from customers who park at DIA, LPI clerks to run license plate checks on vehicles parked at DIA, traffic employees to ensure the smooth flow of traffic into and out of parking lots, vault clerks to handle and protect parking revenue and audit technicians who audit various cash transactions. The front line employees work in non-managerial, non-supervisory positions and are represented by Service Employees International Union Local 105 ("Local 105"). Along with the non-supervisory valet employees, the front line employees and are the only employees in DIA's operational structure that are represented by a union. The supervisors that the Union now seeks to organize have never been represented by a union and perform distinct services from the employees represented by Local 105. Importantly, the supervisors are directly responsible for supervising the unionized employees. As the record overwhelmingly demonstrates, the employees Local 455 seeks to represent in this case are "supervisors" as defined by the Act and are therefore excluded from the Act's coverage. Consequently, the Union's petition for certification must be denied.

Among Standard Parking's contractual obligations is the requirement that the Company's staff at DIA must include an Accounting Supervisor, an LPI Supervisor, a Traffic Supervisor and a Lane Supervisor. Tr. 43. In addition to the contractually mandated supervisors, the Company also employs a Finance Supervisor at DIA.

2. The Record Establishes that Lane Supervisors Exercise Statutory Supervisory Duties.

The Lane Supervisors supervise and monitor frontline airport parking employees, and primarily cashiers, in multiple vehicle exit lanes. Lane Supervisors' main responsibilities include the supervision and coordination of all shift cashiers' schedules, assisting front-line employees with difficult issues or customers and to provide a solution, resolving employee issues such as policy violations, providing testimony and support in the grievance procedure, issuing discipline, and scheduling and documenting employee breaks. Tr. 23. The Lane Supervisors typically supervise between three and ten cashiers per shift, and are stationed in an office that is positioned so they can see the lanes of the cashiers they supervise. Tr. 25, Tr. 64, Tr. 219. The Lane Supervisors have access to the personnel files of the employees they supervise. Tr. 87.

The Lane Supervisors are responsible for ensuring cashiers are doing their jobs correctly, are completing their job duties and are processing transactions correctly. Tr. 24. The Lane Supervisors do not need to get authorization from a higher level manager to perform these functions. Tr. 24. Lane Supervisors also have the authority to issue discipline and, while the employees they supervise are covered by a collective bargaining agreement containing a progressive discipline policy, they have discretion to impose more serious discipline as circumstances warrant. Tr. 33, Tr. 145. Lane Supervisors do not need an Operations Manager's approval to discipline the employees they supervise, nor do the Operations Managers approve whatever discipline the Lane Supervisors impose. Tr. 71-72, Tr. 146, Tr. 155.

Lane Supervisors report to Operations Managers, but do not need to go to the Operations Managers for day to day direction. Tr. 69. Lane Supervisors also have the

discretion to adjust staffing when there are too many or too few employees on a shift, though they inform the Operations Manager about whatever decision they have made. Tr. 72. An employee who needs to work due to illness calls the Lane Supervisor to report his or her absence. Tr. 84. The Lane Supervisors can determine whether to call in a replacement employee when an employee who is scheduled to work calls off, and do not need a Manager's approval to make such replacements. Tr. 81.

The Lane Supervisors also have the discretion to approve "mutuals," which are agreements between employees to exchange shifts. Tr. 88. After approving a mutual, the Lane Supervisor forwards the approved request to an Operations Manager. At least one Operations Manager approves the mutual requests 100% of the time when the supervisor sends an approved mutual. Tr. 88-90.

The Company's witnesses testified that the main responsibilities identified in the Company's job description for the Lane Supervisors accurately describe the functions Lane Supervisors perform. Tr. 22-23, Tr. 44, Tr. 149.

3. The Record Establishes that Traffic Supervisors Exercise Statutory Supervisory Duties.

Traffic Supervisors direct the duties and work assignments of all traffic agents and surface lot personnel assigned to a shift. Tr. 27. In this capacity, the Traffic Supervisor is responsible for the supervision, work assignments and discipline of traffic personnel. When deciding to impose discipline, Traffic Supervisors do not need to obtain a manager's permission prior to implementing such discipline. Tr. 27-28, Tr. 162. The position is also required to ensure adherence to the Company's traffic policies and procedures. Traffic Supervisors also adjust employee deployments based on operational needs. Tr. 27.

Traffic Supervisors report to Operations Managers, but do not need to go to the Operations Managers for day to day direction. Tr. 69, Tr. 168. Traffic Supervisors also have the discretion to adjust staffing when there are too many or too few employees on a shift, though they inform the Operations Manager about the decision they have made. Tr. 72, Tr. 128. These supervisors have the authority to assign job duties to the employees they supervise each day. Tr. 161. An employee who will miss work due to illness calls the Traffic Supervisor to report his or her absence. Tr. 84. Traffic Supervisors can also determine whether to call in a replacement employee when an employee who is scheduled to work calls off, and do not need a Manager's approval to make a replacement. Tr. 81.

The Traffic Supervisors also have the discretion to approve "mutuals," which are agreements between employees to exchange shifts. Tr. 88. After approving a mutual, the Traffic Supervisor forwards the approved request to an Operations Manager.

The Company's witnesses testified that the main responsibilities identified in the Company's Traffic Supervisor job description accurately describe the functions Traffic Supervisors perform. Tr. 26, Tr. 44, Tr. 161.

4. The Record Establishes that the LPI Supervisors Exercise Statutory Supervisory Duties.

LPI Supervisors are responsible for the supervision of all LPI staff including scheduling, checking the accuracy of work, disciplining employees, ensuring that LPI agents are compliant and following proper procedures, monitoring employee performance and providing feedback and coaching as needed. Tr. 33-34. The LPI Supervisors, like the Company's other supervisors, participate in the contractual grievance process as witnesses or as the Company representative who issued discipline. Tr. 34. As such, the

LPI Supervisors give the Company input into what the Company should do in a particular grievance and the Company takes such input into consideration when processing grievances. Tr. 34-35.

LPI Supervisors report to Operations Managers, but do not need to go to the Operations Manager for day to day direction. Tr. 69. The LPI Supervisors have the authority to send an employee home from a shift early, though they report to an Operations Manager to inform the Manager that an employee was sent home. Tr. 70. LPI Supervisors also have the discretion to adjust staffing when there are too many or too few employees on a shift, though they inform the Operations Manager about the decision they have made. Tr. 72. An employee who will miss work due to illness calls the LPI Supervisor to report his or her absence. Tr. 84. LPI Supervisors can determine whether to call in replacement employees when an employee who is scheduled to work calls off without obtaining a Manager's prior approval. Tr. 81. The LPI Supervisors also have the discretion to approve "mutuals," which are agreements between employees to exchange shifts. Tr. 88. After approving a mutual, the LPI Supervisor forwards the approved request to an Operations Manager. At least one Operations Manager approves the mutual requests 100% of the time when the supervisor sends an approved mutual. Tr. 88-90.

The Company's witness testified that the main responsibilities identified in the Company's LPI Supervisor job description accurately describe the functions LPI Supervisors perform. Tr. 35, Tr. 44.

5. The Record Establishes that the Finance Supervisors Exercise Statutory Supervisory Duties.

Finance Supervisors supervise the master clerks, vault clerks and front desk staff in the performance of their job duties. Tr. 35. This supervision requires a Finance

Supervisor to monitor daily vault activities and finance reporting and to track employees' attendance, take disciplinary action and verify work in progress. In this capacity, Finance Supervisors must follow and enforce company policies and procedures. The Finance Supervisors have the authority to discipline the employees they supervise and do not need advance permission to do so. Tr. 36.

6. The Record Establishes that the Audit Supervisors Exercise Statutory Supervisory Duties.

The Audit Supervisor is responsible for the day-to-day management of the audit technicians who audit exception transactions. The Audit Supervisor also analyzes processes and procedures to ensure the effectiveness of controls, accuracy or records and efficiency of audit operations. Moreover, the Audit Supervisor leads operational audits and assumes responsibility for the accuracy of the information. This supervisor also monitors the percentage of audits completed by the audit staff and daily audited documents in addition to overseeing compliance with internal controls. The Audit Supervisor must also prepare monthly correspondence to the audit staff and ensure compliance with Company policies and procedures. The Audit Supervisors do not need permission from any other manager to direct the employees they oversee and have the discretion to make assignments as they deem appropriate. Tr. 37. Audit Supervisors also have the discretion to discipline employees as necessary and do not need managerial approval to do so. Tr. 37, Tr. 55-56. The Company's witness testified that the main responsibilities identified in the Company's Audit Supervisor job description accurately describe the functions Audit Supervisors perform. Tr. 37.

B. Application of Board Precedent to the Record Evidence Compels a Finding that the Supervisors are Section 2(11) Supervisors.

Section 2(11) of Act defines “supervisor” to mean:

Any individual having the 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. 29 USC Section 152(11).

It is well-settled that the possession of any one of the indicia specified in Section 2(11) is sufficient to confer supervisory status, as long as the authority is carried out in the interest of the employer and requires the exercise of independent judgment. *Arlington Masonry Supply, Inc.* 339 NLRB 817, 818 (2003). Significantly, it is not required that the individual have exercised any of the powers enumerated in the statute; rather, it is the existence of the power that determines whether the individual is a supervisor. *Id.*

The actual exercise or the frequency of the exercise of that authority is irrelevant to a determination of supervisory status. *See Union Square Theatre Management, Inc.*, 326 NLRB 70 (1998); *Beverly California Corp. v. NLRB*, 970 F.2d 1548, 1550 n.3 (6th Cir. 1992). Rather, “[i]t is the existence of a statutory grant of authority that counts under the statute and not the frequency of its exercise.” *Altercare of Hartville v. NLRB*, 129 F.3d 365, 369 (6th Cir. 1997), quoting *Beverly California Corp. v. NLRB*; *see also Biewer Wisconsin Sawmill*, 312 NLRB 506, 507 (1993). It is possession of authority consistent with any of the indicia of Section 2(11), and not the actual exercise of that authority, which is the evidentiary touchstone. *Meyer Alaska, Inc.*, 334 NLRB 644, 649 (2001); *Allstate Insurance Co.*, 332 NLRB 759, 760 (2000). Accordingly, individuals with supervisory authority do not lose their status because they do not actually exercise their

authority. *Opelika Foundry*, 281 NLRB 897, 899 (1986). Furthermore, in applying the statutory requirements for Section 2(11) status, the Board will rely on evidence included within the job descriptions. *See Colonial Manor*, 267 NLRB 525 (1983); *see also Northwoods Manor*, 260 NLRB 854 (1982).

As detailed above, the Company's supervisors possess numerous indicia of supervisory authority. Specifically, the supervisors have the authority to discipline employees, to effectively recommend discipline, to responsibly direct employees, to assign employees and to adjust grievances. Given these indisputable facts, the Board must conclude that the Company's supervisors are Section 2(11) supervisors.

C. The Regional Director Failed to Properly Consider the Record Evidence and Also Failed to Properly Apply Board Precedent in Determining that the Supervisors Are Not Section 2(11) Supervisors.

In the portions of the Decision determining that the Company's supervisors are not Section 2(11) supervisors, the Regional Director repeatedly failed to consider or give proper weight to all the evidence in the record, including inferences fairly drawn from that evidence, as is required by due process and Supreme Court precedent. *See, e.g., NLRB v. Kentucky River Community Care*, 532 U.S. 706, 714-715. In other instances, the Regional Director either disregarded credible testimony or ignored facts in the record, then concluded that the Company's employees are not supervisors. The Supreme Court has made clear that the Board is required to credit probative evidence, give fair weight to circumstantial evidence, and draw reasonable inferences based on all relevant evidence in the record considered as a whole. *Allentown Mack Sales & Service, Inc. v. NLRB*, 522 U.S. 359, 368-372 (1998). Additionally, the Regional Director failed to properly apply

the Board's precedent as set forth by the Company to the evidence presented. Some examples of the Regional Director's errors follow.

1. Authority to Discipline.

In the portion of the Decision entitled "Authority to Discipline," the Regional Director concludes that the "evidence is too equivocal to establish that the supervisors possess the independent authority to discipline or effectively recommend discipline of employees within Sec. 2(11) of the Act." (Decision 36-37). The Regional Director's opinion in this regard is flatly contradicted by the evidence in the record. Here, rather than credit the evidence as required by established Board precedent, the Regional Director substitutes her own judgment to determine that, plain facts notwithstanding, it is not clear that the supervisors can discipline the employees they supervise. In other instances, the Regional Director concludes that the Company's witnesses' testimony was "conclusory" (Decision 32) or that warning documents issued by supervisors "do not demonstrate convincingly that the supervisors exercised a sufficient degree of discretion for their judgment to be independent." (Dec. 33). However, there is no identifiable reason to discount the witnesses' credibility or their testimony considering the supervisors' ability to issue and recommend discipline. Moreover, if testimony was "conclusory," it was because the information being testified about was so evident to the witnesses and inherent to a particular position that it did not bear an extended explanation.

Though the Regional Director discounts their statements, the Company's Assistant General Manager, Thom Jorgensen, Operations Manager Mohamoud Abulaahi, and two supervisors all credibly testified that supervisors can and do issue discipline in the course of their job duties. Based on the testimony, it is also undeniable that the

supervisors do not need authorization from an Operations Manager or any other member of management prior to issuing verbal warnings, written warnings and, in some cases, suspensions. Tr. 33, Tr. 71-72, Tr. 101, Tr. 108. The supervisors at issue are expected to prepare discipline documents when necessary and to present them to the affected employee. The supervisors are also responsible for investigating the circumstances giving rise to a disciplinary action without a Manager's oversight. Tr. 101, Tr. 102.

Furthermore, the Company's supervisors routinely implement increasingly serious forms of discipline in accordance with the progressive discipline policy found in the collective bargaining agreement between Standard Parking and Local 105. Each disciplinary document that a supervisor issues sets forth the level of discipline being imposed and informs the recipient that "further violation of this or any other company rules will result in disciplinary action up to and including termination." Thus, the Company can use a written warning or suspension issued by a supervisor for more serious forms of discipline such as an employee's termination.

Additionally, there can be no dispute that Company's supervisors have the authority to decide whether and how to handle discipline cases themselves. For example, the Company produced evidence that one supervisor issued a second written warning to employee Mekdes Lemma after she instructed him to remove an earpiece and he "preferred arguing" that he had a right to listen to music on the job. Consequently, the supervisor issued Mr. Lemma a written warning for using an earpiece while on the clock. Clearly, this supervisor had the authority to decide whether to issue discipline and apparently would not have issued it if the employee complied with her initial directive to

remove the earpiece. However, the Regional Director somehow did not recognize the supervisor's obvious discretion in determining the level of discipline to impose.

The Regional Director selectively relied on Traffic Supervisor John Eckart's testimony concerning his ability to send an employee home for being out of uniform to discount his supervisory authority. Mr. Eckart credibly testified that if an employee arrives at work without a proper uniform, he can send the employee home, but that he uses "a little common sense" and will try to get the employee the proper uniform to allow him to work when possible. Tr. 172. Mr. Eckart testified unequivocally that the decision on whether to send an out-of-uniform employee home or to permit the employee to work "is my call." Tr. 172. Although the Regional Director determines that what she terms "narrow confines" mean that "it cannot be fairly concluded that [supervisors] exercise independent judgment in sending employees home, this conclusion is not based on any recognizable application of law. Here, Mr. Eckart plainly testified that he uses his own judgment in determining whether to send an employee home. This authority alone establishes that he is a Section 2(11) supervisor. Nothing in the law permits the Regional Director to apply a more stringent standard to the supervisors' disciplinary authority or to ignore otherwise credible testimony. Nor is there any basis for the Regional Director's deviation from established Board precedent on this issue.

Mr. Eckart also testified about the flexibility that supervisors have in determining how many days to suspend an employee. Mr. Eckart explained that in cases that rise to the level of suspension, he will "usually ask for one to three days, you know, depending on the violation." Tr. 184. Mr. Eckart also testified, "you know, I can go to HR and want three days, period. Or I can go to HR and say let's cut a little break her. Can we just give

them one? This looks like a middle of the road.” Tr. 184. Therefore, Mr. Eckart reviews the circumstances surrounding a rule infraction and uses his discretion and independent judgment to set the number of days an employee will be suspended. He also testified that the discipline he sets forth in the disciplinary documents is imposed on the recipient. Tr. 183. While the Company did not introduce a document demonstrating a situation where Mr. Eckart exercised his judgment in issuing a suspension, there is no requirement that each statement a witness makes on the record be supported by a document. Here, Mr. Eckart gave sworn, undisputed testimony that he has discretion in issuing a suspension. Such testimony is sufficient for purposes of establishing the supervisors’ disciplinary authority.

Additionally, the record clearly reflects that the Company’s supervisors have the authority to counsel employees for issues such as being out of uniform. Tr. 103. They can also issue warning notices related to an employee’s procedural non-compliance that are not used in the progressive disciplinary process. Tr. 104. Accordingly, in each instance where a supervisor identifies an employee’s performance deficiency, that supervisor must exercise discretion in deciding whether to verbally counsel the employee, issue a written warning or impose more severe discipline in accordance with the contractual progressive discipline policy. Tr. 171. Despite the Regional Director’s conclusion to the contrary, Board precedent mandates that the supervisors’ ability to impose discipline removes them from coverage under the Act. The Regional Director erred by disregarding the facts on the record and sidestepping Board precedent in determining that the Company’s supervisors do not have disciplinary authority. Therefore, her decision must be overturned.

- a. There is no policy requiring a Manager's approval of a supervisor's discipline.

The Union introduced into evidence what it characterized as a "disciplinary policy" or "procedure" set forth in an e-mail dated June 20, 2011. U Ex. 2. That e-mail, which was sent by Human Resources Generalist Bobbie Neely, states the following:

"Going forward **all** progressive discipline and warnings must be provided to Human Resources with supporting documentation attached for approval prior to being issued to the employee. Documents without supporting documentation will not be considered. No discipline is to be issued without approval from Isaac and Human Resources."

However, the facts in this case belie the Union's conclusion that the e-mail constituted a "policy" or "procedure" or that the Company ever implemented such a policy for several reasons. First, all of the Company's witnesses credibly testified that supervisors do not need any approval prior to issuing various forms of discipline. Second, there is clear evidence that various supervisors issued discipline to employees after the June 20, 2011, e-mail without obtaining approval from either Human Resources or General Manager Isaac Kilgore. Tr. 284-285. Third, Lane Supervisor Asfaw Kuture, who appeared as the Union's witness and testified about the policy, admitted that he has not imposed any discipline under the purported new policy, and didn't know if the policy was in place. Tr. 286, Tr. 288. Fourth, Mr. Kuture could not identify where the policy was located or how it was enforced. In fact, when pressed, he admitted that there was not a written policy on which he based the conclusion that discipline required a manager's approval. Tr. 260. Mr. Kuture also claimed that the Company's employee handbook contains a policy setting forth a requirement that a supervisor has "to have documentation before you issue somebody a write-up," then reversed course after apparently recognizing that no such policy exists. Tr. 260, Tr. 261. Finally, nothing in the progressive

disciplinary process established by the collective bargaining agreement requires the approval of the Human Resources department or the General Manager prior to an employee issuing discipline. Significantly, the current collective bargaining agreement was implemented after Ms. Neely's e-mail in June of 2011. Thus, even if Ms. Neely's e-mail had constituted a policy or procedure, which it did not, it would nevertheless have been superseded by the current collective bargaining agreement, which does not require managerial approval for discipline.

b. The supervisors' input is essential to the Company enforcing discipline.

Mr. Kuture testified to the importance of a supervisor's documentation to enforcing discipline through the grievance process. Specifically, Mr. Kuture testified, "So without documents- providing your documentation, we will end up losing that, you know, grievance. We will lose our basis to enforce the company policy with those employees." Tr. 263. It is thus clear that, even if it is true that Mr. Kuture cannot implement discipline himself (and it is abundantly clear that he can), his report of misconduct forms the basis for whatever discipline the Company imposes on an employee. Contrarily, without a supervisor's input, according to Mr. Kuture's explanation, the Company could not impose discipline on an employee. As such, if a supervisor used his or her discretion not to document an incident, no discipline could ensue. Accordingly, Mr. Kuture's testimony buttresses the fact that supervisors are essential to the discipline process and that they both actively impose and effectively recommend discipline.

Finally, it bears mentioning that the supervisors at issue in this case are disciplining employees in the interest of the Company. Specifically, Standard Parking is in the business of providing quality parking management services to its clients and the

public. It follows that ensuring that the employees who serve as the face of the Company comply with the client's expectations by complying with reasonable work rules is in the interest of the employer. In this regard the supervisors are acting in the Company's interest by disciplining and directing the Company's employees to maximize customer service and adherence to Company policy which, in turn, satisfies the City and permits the Company to maintain the operating contract at DIA. These facts further contradict the Regional Director's determination that supervisors cannot discipline employees and merit the Board's reversal.

2. Authority to Adjust Employee Grievances.

As noted, it is not required that the individual have exercised any of the powers enumerated in the Act; rather, it is the existence of the power that determines whether the individual is a supervisor. *Arlington Masonry Supply, Inc.*, 339 NLRB 817, 818 (2003). As the record demonstrates, Standard Parking's supervisors both possess the authority to adjust employee grievances and have actually adjusted such grievances. Tr. 126.

Assistant General Manager Thom Jorgensen credibly testified that supervisors have the authority to adjust grievances and that he has witnessed supervisors participate in grievance meetings and provide input into how the Company should respond to the grievance. Tr. 34-35. Additionally, the Union's witness, Asfaw Kuture, has resolved at least one grievance himself. In 2009, while he was employed in the same Lane Supervisor position that he is today, Mr. Kuture intervened in a conflict between two of the employees he supervised. Er. Ex. 15. In that case, Mr. Kuture spoke with the employees, resolved the dispute and prepared a memorandum to the Operations Manager explaining his resolution. Er. Ex. 15. In his memorandum, Mr. Kuture reported that he

advised one of the employees on how “one should approach people” and informed him that “aggressiveness would not bring any remedy over an argument.” Er. Ex. 15.

Despite the clear evidence of the supervisors’ unencumbered authority to adjust grievances, the Regional Director concluded that the Company failed to meet its burden of proof on this issue. Although it is unmistakable that Mr. Kuture intervened in a grievance between two employees, the Regional Director inexplicably determined that Mr. Kuture “merely intervened informally to mediate between the two cashiers to fix a misunderstanding between them by helping to facilitate communication so the employees could work out their differences.” (Dec. 40). However, there is absolutely no evidence in the record to support the Regional Director’s conclusion. The reality is that Mr. Kuture intervened in a conflict between the employees he supervised to address their differences and remediate the inappropriate conduct by one of the employees. The situation was not a casual misunderstanding between the employees and required involvement by management. Mr. Kuture’s written report about the incident also undermines the Regional Director’s conclusion about the informal nature of Mr. Kuture’s intervention.

Courts have routinely found that the adjustment of even minor grievances is enough to support a finding of supervisory authority. *Passavant Retirement and Health Center v. National Labor Relations Board* 149 F.3d 243, 248 (3d Cir. 1998). Therefore, the authority of Mr. Kuture and similarly-situated supervisors to adjust employee grievances on the Company’s behalf renders them supervisors who are excluded from coverage under the Act.

There can also be no dispute that the Company’s supervisors have the express contractual authority to adjust employees’ grievances. Article 18 of the current collective

bargaining agreement between the Company and SEIU Local 105 provides, in relevant part, "Grievances must be filed in writing with the employee's immediate supervisor or designee within ten (10) working days of their occurrence, five (5) working days in the case of discharge." Further, Step One of the contractual grievance procedure states, "The Employee's immediate supervisor shall meet within five (5) working days with the grievant, his/her Steward and/or Union Representative and attempt to resolve the dispute." Further, "If the grievance is not resolved at Step One, the Union shall present the written grievance to the Resident Manager, within five (5) days of its receipt of the Step One answer. Thus, the collective bargaining agreement unambiguously authorizes the supervisors to meet with the grievant and his or her representative to "attempt to resolve the dispute." The grievance process clearly contemplates the possibility that a supervisor will resolve the grievance because it will only advance to Step Two "if the grievance is not resolved at Step One."

As noted, an employee is not required to regularly and routinely exercise the powers set forth in the statute. Instead, it is the existence of the power which determines whether or not an employee is a supervisor. *California Beverage Co.* 283 NLRB 328 (1987). Here, the supervisors are unequivocally conferred with the authority to adjust grievances in accordance with the clear language in the collective bargaining agreement between the Company and Local 105. Although the Regional Director concludes that the "mere existence of [the] contractual provision does not establish that the supervisors possess Section 2(11) grievance-adjustment authority," the Company's witnesses and evidence establish that the supervisors do, in fact, possess the authority to adjust

grievances whether they do so in accordance with the collective bargaining agreement or not.

The Regional Director's reliance on the purported lack of testimony that supervisors have processed grievances as set forth in the collective bargaining agreement fails to account for the fact that the current agreement was adopted in late May of 2012. As such, the supervisors likely had not had the opportunity to adjust grievances in accordance with the process by the July 23, 2012, hearing. The fact remains, however, that as on July 23, 2012, the supervisors undeniably had the authority to process grievances as required by the collective bargaining agreement. Furthermore, even if the supervisors have not yet processed a grievance under the new collective bargaining agreement, Board precedent makes clear that the authority to do so qualifies these employees as Section 2(11) supervisors. Accordingly, the Board must reverse the Regional Director's determination that the Company's supervisors cannot adjust employees' grievances.

The Regional Director cannot dismiss the facts or ignore applicable law to conclude that the Company's supervisors do not have the authority to adjust grievances. The simple fact is that the supervisors have both contractual and actual authority to adjust grievances and that they do in fact adjust grievances.

3. The Company's Supervisors Responsibly Direct the Employees They Oversee.

As with the analysis of the Company's supervisors' authority to discipline, the Regional Director's decision that the supervisors do not responsibly direct employees is clearly erroneous and prejudicially affects the Company's rights. Every witness who testified at the hearing provided evidence that the Company's supervisors responsibly

direct the employees they oversee. Assistant General Manager Thom Jorgensen testified that Lane Supervisors, for example, are responsible for “making sure” that the cashiers are “doing their jobs correctly.” Tr. 24. They are also charged with “answering questions if they need... help with anything,” “monitoring to see if they’re doing everything they should,” and to observe whether “they’re processing transactions correctly.” Tr. 24. Operations Manager Mohamoud Abdulaahi, who oversees the supervisors’ work, testified that the supervisors do not need to come to him on a day to day basis for direction. Tr. 69.

Additionally, Lane Supervisor Abdul Rahimi testified that his job requires him “to go in and help the cashier” on certain transactions. Tr. 145. Mr. Rahimi also conducts a monthly team meeting with the employees he supervises to address topics such as safety and customer service. Tr. 147. Traffic Supervisor John Eckart testified that he trains employees and directs the duties and work assignments of the traffic agents under his watch. Tr. 161. He also described himself as “very independent” on the job, and testified that he makes his employees’ work assignments without a manager telling him what to do. Tr. 162. Lane Supervisor Asfaw Kuture testified that he trains newly hired employees to familiarize them with the Company’s policies and procedures and to explain what the Company expects of them. Tr. 296. He also testified that he monitors and supervises cashiers, which requires him to ensure that cashiers are performing their job functions correctly, even stating that it is “his responsibility that those cashiers do” exit transactions “correctly.” Tr. 296.

The evidence makes abundantly clear that the Company’s supervisors responsibly direct the employees they supervise. The witnesses consistently testified that the

supervisors “oversee,” “help,” “direct,” “monitor” and “assign” the various non-supervisory employee groups. The evidence also establishes that the supervisors use independent judgment in directing employees. For example, the supervisors must determine when to intervene with a particular employee and determine how to resolve a given issue. The supervisors must also tailor employee trainings to emphasize areas of weakness that they observe in the Company’s operations and/or with a given employee’s performance. Finally, as the testimony makes clear, the supervisors do not receive day to day oversight from an Operations Manager, nor is managerial approval a prerequisite for the supervisors to direct the front line employees. Thus, the record establishes that the supervisors use independent judgment in supervising the front line employees. Therefore, notwithstanding the Regional Director’s findings to contrary, the facts in the record firmly establish that they are statutory supervisors who are excluded from coverage under the Act.

4. The Company’s Supervisors Schedule and Assign the Employees They Supervise.

The same errors in the Regional Director’s reasoning on the authority of the Company’s supervisors to discipline employees apply to her conclusion concerning the supervisors’ ability to assign work. The Company’s witnesses credibly testified that supervisors are responsible for scheduling the front line employees on a daily basis. While the Company’s higher-level managers prepare a periodic master schedule to ensure proper overall staffing in accordance with the Company’s operating contract with the City, the supervisors make scheduling and staffing adjustments each day as necessary. The existence of a master schedule, alone, does not strip the supervisors of their day-to-day authority to assign employees.

As Operations Manager Mahamoud Abdulaahi testified, supervisors can adjust the schedule when an employee calls out and can determine whether to replace employees without seeking prior approval. Tr. 72, Tr. 81. Traffic Supervisor John Eckart testified that in situations where there are slots to fill on the schedule, a supervisor “can choose anybody who is trained for the classification” to replace an absent employee. Tr. 128. Thus, supervisors have the authority to assign employees or effectively recommend action concerning employee assignment. And, although the supervisors alert an Operations Manager about schedule changes, Mr. Abdulaahi explained, “they’ll give me what’s going on, but yes, that’s their own position, to call and replace their employees.” Tr. 72-73. He also testified that when a supervisor authorizes and forwards a “mutual” shift exchange, he approves the exchange 100% of the time. Finally, it bears mentioning that a front line employee who needs to miss work contacts a supervisor to report the absence. Tr. 84.

The Regional Director minimizes the significance of the supervisors’ roles in authorizing shift trades, but cannot ignore facts demonstrating that supervisors assign front line employees. When addressing shift trades, the Regional Director concluded that the “supervisor has to sign off on a form before the trade goes into effect” and “will deny the trade only if it creates a scheduling conflict or if it conflicts with policy by creating overtime or establishing a pattern.” (Dec. 13-14). Moreover, the Regional Director correctly notes that “[h]igher management can overturn a supervisor’s approval of a shift trade, but that rarely happens, and when it happens, it is usually because the supervisor did not notice a scheduling conflict.” (Dec. 14).

The reality of the supervisor's role in the shift trade process is that the supervisor's approval is essential to facilitating a trade. Put simply, if a supervisor does not approve a shift trade, it generally will not happen. And, as the Regional Director acknowledges, the supervisors will deny a trade if it creates a scheduling conflict. Thus, the supervisor has to evaluate what impact a proposed trade will have on the schedule, then use discretion to determine whether to authorize the trade. This process requires the supervisors' pure discretion and independent authority consistent with the supervisory characteristics set forth in Section 2(11) of the Act. Therefore, supervisors have the authority to assign employees and they routinely exercise that authority. Consistent with Board precedent, the Company's supervisors must be classified as Section 2(11) supervisors because they have and exercise the authority to assign the employees they supervise.

D. The Board's Conduct of the Hearing and Its Ruling Made in Connection with the Proceedings Have Prejudiced the Company.

As detailed, the Company did not receive notice of the July 23, 2012, hearing until July 17, 2012. The Company requested a modest extension of the hearing date due to the short notice and scheduling conflicts for the Company's counsel. However, for reasons that are not clear, the Regional Director was unwilling to grant the Company's request for a short postponement of the hearing. Then, on the last business day before the hearing, the Region informed the Company for the first time that there were five supervisory positions at issue in the hearing rather than the single Lane Supervisor position that the Company believed it was to address at the hearing. When pressed again for a brief extension in light of the significant change in the scope of the hearing and the fundamental unfairness such change imposed on the Company, the Board refused to

postpone the hearing yet again, this time because of “the late date.” Of course, had the Board informed the Company of the job classifications that were the subjects of the hearing more than one day in advance, the Company could have secured additional witnesses and documents to present at the hearing.

At the hearing, the Company once again made a motion to postpone the hearing given the inability of the Company to fully prepare its case and the lack of due process arising from both the short notice of hearing and the Region’s inability to articulate the employee groups that were the subject of the hearing. Once again, for reasons that were not explained, the Region denied the Company’s request and required to the Company to present its case without having had an opportunity to adequately identifying and preparing witnesses and documents to present in its case. The Board’s continued refusal to postpone the hearing for roughly one week is particularly perplexing when considering that there was no urgency to the matter being heard. For example, no employees were in harm’s way and no employees were faced with an impending job loss. It would have been both simple and reasonable for the Board to delay the hearing for a matter of days.

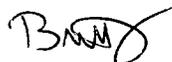
Adding insult to injury, the Regional Director concluded, in part, that the Company’s supervisors are not statutory supervisors because the Company did not present first hand testimony about certain issues. In one instance, the Regional Director observed, “the lane supervisors who were involved in the circumstances relating to Employer Exhibit 10 did not testify at the hearing.” (Dec. 30). In another example, the Regional Director noted that the “Assistant General Manager testified that a lane supervisor issued the warning, but the lane supervisor did not testify.” (Dec. 31). Elsewhere, the Regional Director discounted testimony concerning a supervisor

disciplining an employee for a cash shortage and stated, “[b]ecause no one with direct, first-hand knowledge about this warning testified, the evidence on this issue is inconclusive.” (Dec. 34). Thus, the Region built a procedural lack of fairness into the process by rushing the hearing date, then penalized the Company for failing to produce witnesses that would have further solidified its case. The Region’s actions in this regard were prejudicial to the Company and led to erroneous conclusions while also subjecting the Company to a fundamental lack of fairness or due process in the hearing. For this reason, the Board should review and overturn the Regional Director’s decision.

V. CONCLUSION

For the reasons set forth above, the Company respectfully requests that the Board grant its Request for Review and dismiss the Union’s petition in its entirety because the Company’s employees in question are Section 2(11) supervisors and are therefore excluded from coverage under the Act.

Respectfully submitted,
STANDARD PARKING CORPORATION



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ORDER SECTION

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 27**

STANDARD PARKING CORPORATION

Employer

and

Case 27-RC-085144

TEAMSTERS LOCAL UNION NO. 455

Petitioner

DECISION AND DIRECTION OF ELECTION
(REVISED)

On July 12, 2012, Teamsters Local Union No. 455 (Petitioner), filed a petition under Section 9(c) of the National Labor Relations Act, seeking to represent a unit of certain employees who work for Standard Parking Corporation (Employer) at Denver International Airport (DIA) in Denver, Colorado, excluding office personnel.¹ At the hearing, Petitioner amended its proposed unit description to include lane supervisors, traffic supervisors, license plate inventory supervisors, finance supervisors, and audit supervisors (collectively referred to in this Decision as “supervisors”) employed by the Employer at DIA. The parties agreed, by stipulation, to exclude from the unit all other employees, office clericals, managers, guards, professional employees, and statutory supervisors as defined in the Act. There are approximately 21 employees in the petitioned-for unit.

¹ Although the Employer operates facilities throughout the United States, only the Employer’s operation at Denver International Airport is at issue in the present case.

The only issue to be addressed herein is whether the job classifications that Petitioner seeks to include in the petitioned-for unit are supervisory within the meaning of Section 2(11) of the Act.² Petitioner contends that none of these job classifications is supervisory, that all five of these classifications are supervisory in job title only, and that the individuals who work in these classifications function as lead employees. In contrast, the Employer contends that all five of the classifications are supervisory within the meaning of Section 2(11).

On July 23, 2012, a hearing officer of the National Labor Relations Board conducted a hearing in Denver, Colorado. Following the close of the hearing, the parties timely filed briefs.

As explained below, based on the record and the relevant Board law, I find that the record evidence does not establish that any of the five classifications at issue are supervisory positions within the meaning of Section 2(11) of the Act.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to me. Upon the entire record in this proceeding, I make the following findings:

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

2. **Jurisdiction:** The parties stipulated, and I find, that the Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that it is subject to the jurisdiction of the Board.

² The Employer does not contend, in the event that the supervisors are deemed to be employees, that a unit of these employees would be inappropriate.

3. **Labor Organization Status:** The parties stipulated, and I find, that Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

4. **Statutory Question:** 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, and it will effectuate the purposes of the Act to assert jurisdiction herein.

5. **Unit Finding:** 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, and it is appropriate to direct an election in the following unit of employees:

INCLUDED: All full-time and regular part-time lane supervisors, traffic supervisors, license plate inventory supervisors, finance supervisors, and audit supervisors employed by the Employer at Denver International Airport.

EXCLUDED: All other employees, office clericals, managers, guards, professional employees, and statutory supervisors as defined in the Act.

DECISION

In contending that the five job classifications at issue in this case are supervisory, the Employer relies on several aspects of the authority that the supervisors exercise over employees classified as front-line employees concerning assignment, direction, reward, discipline, and grievance adjustment. Below, I set forth the evidence concerning that alleged authority and discuss whether it confers supervisory status within the meaning of the Act. I conclude that the Employer failed to show by a preponderance of the evidence that the supervisors' role, if any, in assignment, direction, reward, discipline, and grievance adjustment satisfies the definition of "supervisor" set forth in Section 2(11) of the Act.

I. GENERAL PRINCIPLES RELATING TO SUPERVISORY STATUS

Section 2(11) of the Act defines a "supervisor" as:

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.

Section 2(11) is to be read in the disjunctive, and the possession of any one of the Section 2(11) powers will make one a supervisor. See *KGW-TV*, 329 NLRB 378, 381 (1999). The requirement of use of independent judgment, however, is conjunctive; thus, an individual is not a supervisor unless the individual exercises an authority with the use of independent judgment and holds the authority in the interest of the employer. *Id.*

The requirement that independent judgment be exercised imposes a significant qualification that limits the definition of "supervisor" to include only people whose exercise of any of the 12 stated Section 2(11) authorities is not merely routine. In adding the independent judgment requirement in the definition of "supervisor," Congress sought to distinguish between truly supervisory personnel, who are vested with "genuine management prerogatives," and employees - such as "straw bosses, leadmen, set-up men, and other minor supervisory employees" - who enjoy the Act's protections even though they perform "minor supervisory duties." *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 280-281 (1974) (quoting S. Rep. No. 105, 80th Cong., 1st Sess. 4 (1947)).

In *Oakwood Healthcare, Inc.*, 348 NLRB 686, 692 (2006), the Board adopted an interpretation of "independent judgment" that focuses on the degree of discretion involved in making a decision, not on the kind of discretion involved (e.g. professional or

technical). For an individual's judgment to be "independent" within the meaning of Section 2(11), the individual "must at minimum act, or effectively recommend action, free of the control of others and form an opinion or evaluation by discerning and comparing data." *Id.* at 692-693. As the Board explained, "actions form a spectrum between the extremes of completely free actions and completely controlled ones, and the degree of independence necessary to constitute a judgment as 'independent' under the Act lies somewhere in between these extremes." *Id.* at 693. The Board recognized that at one end of the spectrum there are situations where there are detailed instructions for the actor to follow, but that at the other end there are situations where the actor is wholly free from constraints. *Id.* It found that "a judgment is not independent if it is dictated or controlled by detailed instructions, whether set forth in company policies or rules, the verbal instructions of a higher authority, or in the provisions of a collective-bargaining agreement[,]" but that a judgment is independent even where there is a guiding policy so long as that policy allows for discretionary choices. *Id.*

Additionally, the judgment that a putative supervisor exercises must "rise above the merely routine or clerical" for it to be truly supervisory within the meaning of Section 2(11). *Id.* at 693. "If there is only one obvious and self-evident choice (for example, assigning the one available nurse fluent in American Sign Language (ASL) to a patient dependent upon ASL for communicating), or if the assignment is made solely on the basis of equalizing workloads, then the assignment is routine or clerical in nature and does not implicate independent judgment, even if it is made free of the control of others and involves forming an opinion or evaluation by discerning and comparing data." *Id.*

Consistent with the congressional intent to distinguish between truly supervisory personnel and those who merely perform minor supervisory duties, the Board is careful not to construe supervisory status too broadly, for a worker who is deemed to be a supervisor loses his organizational rights. See *KGW-TV*, 329 NLRB 378, 381 (1999). Thus, the burden of proving supervisory status is on the party asserting it, in this case the Employer. See *NLRB v. Kentucky River Community Care*, 532 U.S. 706 (2001). The party seeking to prove supervisory status must establish it by a preponderance of the evidence. *Springfield Terrace LTD*, 355 NLRB 937, 941 (2010). Conclusory evidence is not sufficient to establish supervisory status. See *Golden Crest Healthcare Center*, 348 NLRB 727, 731 (2006). Similarly, “[j]ob descriptions or other documents suggesting the presence of supervisory authority are not given controlling weight” as “[t]he Board insists on evidence supporting a finding of actual as opposed to mere paper authority.” *Training School at Vineland*, 332 NLRB 1412, 1416 (2000).

II. FACTUAL FINDINGS AND ANALYSIS

A. Background

1. The Employer’s DIA Operation

The City of Denver (City) owns the parking lots at DIA. There are eight lots consisting of the following: west short-term, west garage, west economy, east short-term, east garage, east economy, Pikes Peak shuttle lot, and Mount Elbert shuttle lot.

The Employer has a contract with the City to oversee parking operations at DIA. The Employer works with representatives of the City to provide customer parking services at the airport.

The top level Employer managers at DIA are General Manager Isaac Kilgore and two assistant general managers, one of whom is Thomas Jorgensen. The record does not include the name of the other assistant general manager.

There also is a Human Resources department, the staff of which includes Human Resources Generalist Bobbi Neely and Human Resources Coordinator Denise Cratke.

The Employer has five operations managers, who also are referred to as managers on duty. The operations managers report to the assistant general managers. The assistant general managers oversee the operations managers to make sure that they comply with reporting requirements required by the City. The Employer usually has two operations managers on duty each shift.

Reporting to the operations managers are the individuals who occupy three of the five classifications at issue here: lane supervisors, traffic supervisors, and license plate inventory supervisors. There are approximately fifteen lane supervisors, three traffic supervisors, and one license plate inventory supervisor. The Employer has one person who works three days per week as a lane supervisor and two days per week as a license plate inventory supervisor.

The Employer also has two finance supervisors and one audit supervisor, who report to the finance manager.

Under the terms of the contract with the City, the City requires the Employer to have lane supervisors, traffic supervisors, license plate inventory supervisors, and an accounting supervisor. The Employer apparently has divided the City-required accounting supervisor classification into the finance supervisor and audit supervisor classifications.

Below the various supervisors, there are approximately 150 front-line employees who handle various aspects of the day-to-day DIA parking operation. This group of front-line employees includes cashiers, traffic agents, license plate inventory agents, master clerks, vault clerks, and audit clerks. The cashiers work in booths located at the parking lot exits, where they collect payment from customers as they leave the parking lots. The traffic agents are involved in opening and closing parking lots, including placing signs to direct customers to the proper lots. The license plate inventory agents go through the parking lots with hand-held computers, recording license plate numbers from the cars parked there. The master clerks and vault clerks handle money that the Employer collects through paying customers. The audit clerks examine transactions for accuracy.

The Employer's lane supervisors, traffic supervisors, license plate inventory supervisors, finance supervisors, and audit supervisors have some authority over these front-line employees. As will be described in more detail below, lane supervisors provide oversight for cashiers; traffic supervisors provide oversight for traffic agents; license plate inventory supervisors provide oversight for license plate inventory agents; finance supervisors provide oversight for master clerks and vault clerks; audit supervisors provide oversight for audit clerks.

Service Employees International Union, Local 105 (SEIU) is the collective-bargaining representative for the Employer's front-line employees. The Employer and SEIU are party to a collective-bargaining agreement that covers these employees, with a term from October 16, 2011, through October 15, 2014.

2. The Employer's Written Job Descriptions for the Alleged Statutory Supervisors

Although, as stated above, job descriptions are not given controlling weight in assessing supervisory status, the Employer submitted into the record written job descriptions for the five supervisor job classifications at issue here. While not dispositive, the job descriptions constitute relevant background material in assessing whether the supervisors have actual Section 2(11) supervisory authority. The basic duties and responsibilities that the written job descriptions reference are set forth below.

The written job description that is applicable to the lane supervisors states that they are responsible for supervising and monitoring front-line airport parking employees in multiple vehicle exit lanes.³ It also states that they are responsible for supervising and coordinating the scheduling of all shift cashiers, including creating a daily schedule and making changes as needed, and calling in additional staff as needed. Additionally, the job description reflects that lane supervisors are to oversee work areas and watch employee performance, resolve employee issues such as dress code violations and improper phone use, prepare backup documentation for disciplinary steps as needed, provide testimony and support in the grievance procedure to support disciplinary actions, and assist employees with difficult issues or angry or upset customers. The job description also states that lane supervisors are responsible for keeping records of cashier attendance, issuing disciplinary warnings for attendance, issuing opportunity-to-improve notices in cases of cashiers using improper procedures, issuing progressive discipline steps, and scheduling and documenting employee break times.

³ Assistant General Manager Jorgensen testified that the Employer modified this written job description for purposes of the hearing, by adding some bullet points to clarify the lane supervisors' duties and responsibilities. He also testified that lane supervisors actually do not perform two of the duties identified on that job description. Although the job description lists designation of vehicle and lot assignments, lane supervisors do not perform this function.

The traffic supervisor job description states that traffic supervisors generally are responsible for accurate parking counts; lot closings and openings; customer assistance with jump starts, lockouts, and lost vehicles; flagging operations; and cashier transportation. It also states that, in connection with the foregoing, traffic supervisors are responsible for directing the duties and work assignments of traffic agents assigned to the shift, and for supervising and disciplining traffic agents.

The job description for the license plate inventory supervisor classification states that they are responsible for overseeing license plate inventory staff including scheduling, accuracy of work, preparing reports, and equipment downloads. The stated essential duties and responsibilities are to follow Employer and airport procedures, including disciplining employees and reporting issues to airport operations; provide accurate vehicle inventory; provide assistance to customers; ensure that employees follow proper procedures such as dress code, car counts, and care of units; and monitor employees' performance and provide feedback and coaching.

The finance supervisor written job description provides that finance supervisors have responsibility for overseeing some cash management functions, including monitoring and overseeing the activities of master clerks and vault clerks. The written job description states that finance supervisors are responsible for monitoring daily vault activities and for handling finance reporting, including attendance tracking and disciplinary action.

The written job description for the audit supervisor states that this position is responsible for the day-to-day management of the audit technicians who handle the auditing of transactions, including tracking shortages and overages. It specifies that the audit supervisor has to take care of numerous tasks relating to revenue and to work

closely with the finance manager to prepare reports for the City and the corporate office.

B. Authority to Assign

The Employer contends that the supervisors are authentic Section 2(11) supervisors because their involvement in moving employees between work locations and/or in making daily scheduling adjustments constitutes supervisory assignment using independent judgment. As explained below, I conclude that the putative supervisors do not exercise Section 2(11) assignment authority with the use of independent judgment.

1. Factual Findings

As part of the City's determinations about the basic level of services provided in the DIA parking lots, the City establishes the number of employees, per shift, in the various work areas throughout the parking lots. Working within the parameters that the City sets, the general manager, the assistant managers, and the operations managers create a blank master schedule to provide for employee coverage of all work areas on all shifts. The blank master schedule is subject to approval by the City.

Once the managers create a blank master schedule and the City approves it, the front-line employees submit bids for placement on the master schedule. Article 14.B. of the collective-bargaining agreement between the Employer and SEIU provides that "[s]eniority shall prevail in bidding of shifts" Article 14.C. provides that "[a]ll shift openings and days off shall be posted for at least five (5) days and shall be awarded on the basis of seniority."

Upon completion of the contractual bidding process, the managers put a master schedule into effect. The master schedule shows employees' assigned parking lot work

locations and shifts. Each master schedule stays in effect for at least several months and sometimes up to year. The master schedule changes, for example, when the City makes coverage changes that require modification of the master schedule.

Lane supervisors and traffic supervisors are involved in adjusting employees' posts when a lot is short of employees and other lots have extra employees. The record does not clearly establish whether the supervisors need operation managers' approval before moving employees. Assistant General Manager Jorgensen testified that no approval is needed, but Lane Supervisor Asfaw Kuture testified that it is.

Traffic Supervisor John Eckart testified that he rotates traffic agents daily through the various work areas, as provided for at Article 11.E. of the collective-bargaining agreement with SEIU. That article provides that "[w]ork assignments for cashiers, traffic LPs, Vault Clerks, and License Plate Review Clerks will be rotated on an equitable basis by the Employer based on scheduling needs." Eckart testified that these employees are well trained and that when he assigns them to the various areas they know what their duties are.

Because employees occasionally are not able to work as scheduled (for example, due to sickness), daily adjustment of the master schedule sometimes is necessary. The lane supervisors, traffic supervisors, license plate inventory supervisors, finance supervisors, and audit supervisors take care of finding employees to fill in for absent employees. The supervisors notify the operations managers when there is a need to fill in vacant slots, but the supervisors apparently retain the responsibility for finding coverage. It appears that the supervisors do not have to obtain approval from a manager to go through the contractual process to find a replacement,

although Lane Supervisor Asfaw Kuture testified he cannot start that process unless a manager authorizes him to do so.

Article 9.F. of the collective-bargaining agreement between the Employer and SEIU provides the following:

The Employer will maintain a list of Employees requesting overtime by shift basis. The Union may review this list upon request. If any Employee refuses overtime more than twice in a sixty (60) day period, the Employee's name shall be dropped from the overtime list for ninety (90) days. Scheduled overtime in a classification will be offered first to the most senior Employee on the overtime list who is at work in that classification. Unscheduled overtime in a classification will be offered first to the Employees who are at work in that classification, in order of seniority and then to qualified Employees who are at work in other classifications, in order of seniority. Thereafter, qualified Employees will be called and assigned the unscheduled overtime in reverse order of seniority.

Pursuant to this contractual language, supervisors fill unscheduled vacancies by offering employees the opportunity to extend their shifts, first by seniority among the employees who are at work in the affected classification and then by seniority among qualified employees who are at work in other classifications. If that does not work, supervisors call employees into work, by reverse order of seniority, using a pre-established list of employees who have signed up to work overtime.

The Employer allows employees to trade shifts within the Employer's established guidelines, which are set forth at Article 9.I. of the collective-bargaining agreement with SEIU. The guidelines are that the employees have to agree in writing in advance, the trade cannot create overtime, an employee cannot trade an overtime shift that he signed up to take, and employees cannot create a long-term or regular shift trade. When employees agree to a shift trade, they submit a form to the supervisor. The supervisor has to sign off on the form before the trade goes into effect. The supervisor will deny the trade only if it creates a scheduling conflict or if it conflicts with policy by

creating overtime or by establishing a pattern. Once a supervisor signs off, the form goes to an operations manager, the payroll supervisor, or the assistant general manager, who enters the shift change on the schedule and then files the form in a binder. Higher management can overturn a supervisor's approval of a shift trade, but that rarely happens, and when it happens it is usually because the supervisor did not notice a scheduling conflict.

Supervisors also schedule employees' daily break times, to ensure that they are able to take required breaks throughout the day.

2. Analysis

In *Oakwood Healthcare, Inc.*, 348 NLRB 686 (2006), the Board construed the Section 2(11) term "assign" to refer to "the act of designating an employee to a place (such as a location, department, or wing), appointing an individual to a time (such as a shift or overtime period), or giving significant overall duties, i.e., tasks to an employee." *Id.* at 689. "[T]o 'assign' for purposes of Section 2(11) refers to the . . . designation of significant overall duties to an employee . . ." *Id.* The Board observed that some job assignments are more difficult and demanding than others, and that the power to assign an employee's overall duties is important to the employee and management. *Id.*

As set forth above, the record shows that the supervisors have no involvement in making the master schedule, which determines employees' regular work areas and shifts. The evidence establishes that the managers are responsible for creating the master schedule. The supervisors only make daily adjustments, such as when there is a need to move employees because of work load, when an employee calls out and a replacement employee needs to be moved or called in, or when employees work out a mutual shift trade.

Here, it does not appear that the supervisors' involvement in making these day-to-day adjustments to employees' work locations and hours constitutes Section 2(11) assignment, as the Board interpreted that term in *Oakwood*. Higher management officials handle the Section 2(11) assignment functions because, through their completion of the master schedule, they – not the supervisors - take care of designating employees to their regular work stations, to their regular work shifts, and to their overall duties. See, e.g., *Croft Metals, Inc.*, 348 NLRB 717, 722 (2006) (occasional switching of tasks does not implicate the authority to assign, within the meaning of *Oakwood*).

In any event, even if it were the case the supervisors' involvement in making day-to-day adjustments to the master schedule constitutes Section 2(11) assignment, any such assignment still would not qualify them as true Section 2(11) supervisors. As explained below, the supervisors' role in making day-to-day adjustments to employees work locations and hours does not involve statutory independent judgment.

Although lane supervisors and traffic supervisors can move employees between work locations, they do so only when there are not enough employees in a location and employees in other locations are available to fill the void. The Board has held that assigning work to equalize workloads is routine and clerical in nature and does not implicate independent judgment. See *Oakwood*, 348 NLRB at 697.

Moreover, the record does not establish that there are any significant skill differences among the cashiers and traffic agents, or that the work locations available for them involve substantially different types of work. Under these circumstances, the movement of cashiers and traffic agents does not involve significant matching of individual employee skills with the particular needs of the various work locations. Accordingly, the process of moving employees between work locations does not involve

the supervisors' exercise of independent judgment. See, e.g., *Shaw, Inc.*, 350 NLRB 354, 355-356 (2007) (rotating essentially unskilled and routine duties among available crew members does not involve the use of independent judgment).

With respect to replacing employees who call in, the evidence shows that the supervisors follow the procedure set forth in the collective-bargaining agreement between the Employer and SEIU. Pursuant to that provision, when there is a need to have other employees fill in, the supervisors follow seniority, first among the employees at work in the involved classification and then among the qualified employees at work in other classifications. If that procedure does not yield an employee who can fill in, the supervisor then, in reverse order of seniority, calls qualified employees from a pre-established list of employees who have signed up for overtime.

Given that this collectively-bargained procedure limits the scope of the supervisors' authority to find employees to fill in, the supervisors' authority in this area does not constitute true supervisory authority. See, e.g., *Regal Heath & Rehab Center, Inc.*, 354 NLRB 466, 470-471 (2009) (nurses' authority to call in additional employees did not involve supervisory independent judgment where the nurses' authority involved merely consulting an existing list that contained the names and telephone numbers of employees who were potentially available to come in to cover a staff shortage); *Oakwood*, 348 NLRB at 693 ("if a collective-bargaining agreement require[s] that only seniority be followed in making an assignment, that act of assignment would not be supervisory").

As for the Employer's contention that the supervisors' role in approving employee mutual shift trades is supervisory, the evidence shows that the supervisors merely sign off on shift changes that the employees work out between themselves,

within the Employer's established guidelines and as set forth in the collective-bargaining agreement. The Board has held that similar authority is routine and clerical, and does not involve supervisory independent judgment. See, e.g., *Golden Crest Healthcare Center*, 348 NLRB 727, 730 n.10 (2006) (authority to "okay" or "initial" time changes not supervisory). Moreover, the evidence does not establish that the supervisors regularly decline to approve schedule changes that the employees have worked out. In the absence of evidence showing that supervisors approve some switches and deny others, there is no basis for concluding that they exercise enough judgment for that approval process to be anything other than routine.

Nor does the supervisors' responsibility for making sure that employees take their breaks make them statutory supervisors. The Board has held that authority over breaks does not involve sufficient authority to make it supervisory authority. See, e.g., *Youville Health Care Center*, 326 NLRB 495, 495-496 (1998) (authority to approve breaks is a routine, clerical judgment); *Washington Nursing Home*, 321 NLRB 366, 366 n.4 (1996) (same). In summary, the supervisors' assignment function that is controlled by pre-established guidelines or is routine does not confer supervisory status within the meaning of Section 2 (11) of the Act.

C. Authority to Responsibly Direct

The Employer contends that the supervisors are statutory supervisors based on their responsible direction of employees, using independent judgment, by performing tasks such as observing employees' work, answering their questions, and providing them with assistance. Although the record demonstrates that the supervisors do engage in these types of activities, I conclude that this direction of employees is not supervisory, because it is not "responsible" direction within the meaning of *Oakwood*.

1. Factual Findings

Lane supervisors oversee a team of cashiers, between approximately three to ten cashiers per shift. Lane supervisors check to make sure that the cashiers are at their work stations on time, and that they perform their jobs correctly. Lane supervisors answer questions that cashiers have, and they assist cashiers when necessary, such as with difficult transactions. They make sure that cashiers wear the correct uniform. Lane supervisors also assist cashiers with customers when cashiers cannot handle their complaints or when there are problems such as customers not having enough money to make full payment.⁴

Traffic supervisors work with traffic agents to make sure that full parking lots are closed, that parking lots with space available are opened, and that signs are properly placed to direct customers to open lots. Traffic supervisors make sure that traffic agents are in the correct parking lots at the proper times and that they accurately count vehicles in the lots.

License plate inventory supervisors oversee license plate inventory agents to make sure that they accurately record the required number of license plate numbers. The Employer requires license plate inventory agents to record 500 license plate numbers per hour with 97 percent accuracy. License plate inventory supervisors conduct spot-checks to audit the entries that license plate inventory agents make, to ensure that they meet the required quantity and accuracy levels.

Finance supervisors are responsible for overseeing some cash management functions, including monitoring and overseeing the activities of master clerks and vault

⁴ When a customer cannot make full payment, lane supervisors have the authority to approve a promissory note that obligates the customer to pay in full at a later time.

clerks in performing their duties and responsibilities. They handle issues that come up in the operation of cash vaults, and they answer questions from clerks.

In addition to their responsibility for tracking cashier shortages and overages, audit supervisors oversee the audit department employees, answer employees' questions, and provide day-to-day direction.

The Employer has an incentive program for the supervisors, under which they are eligible for a monthly bonus of up to \$100 based on whether they meet certain specified criteria, several of which relate to how they perform in overseeing employees. These criteria are outlined in Employer Exhibits 7 and 8. Employer Exhibit 7 sets forth the criteria for the lane supervisors, traffic supervisors, and license plate inventory supervisors. Employer Exhibit 8 sets forth the criteria for the finance supervisors and audit supervisors. For all these supervisors, the operations managers keep track of points that the supervisors earn, based on their performance in the categories identified in these documents.

Under Employer Exhibits 7 and 8, the relevant performance categories for the supervisors include the following:

- * Customer service (whether the supervisor followed all policies and procedures regarding all written compliments and complaints having to do with employee team members, including whether the supervisor made suggestions for employee improvement or employee training and properly recognized employees for compliments);
- * Employee incentive (whether the supervisor followed policies and procedures with each team member, including documentation of infractions, ensuring proper points given, weekly updating employees; and properly communicating with employees about performance);
- * Attendance (whether the supervisor updated team member attendance points and took appropriate action with the team member);
- * Team meetings (having to do with the supervisor conducting monthly team meetings with employees);

- * Communication (whether the supervisor kept team members informed about important information);
- * Accuracy (relating to the supervisor's accuracy on paperwork and documentation);
- * Safety (including following safety guidelines, reporting unsafe conditions, wearing seat belt when in vehicles, and eliminating unsafe conditions such as snow);
- * Supervisor's attendance;
- * Outstanding performance on supervisor's work;
- * Customer compliments for and complaints against supervisors;
- * Overages or shortages and incorrect vehicle audits; and
- * Disciplinary write-ups for the supervisor.

2. Analysis

In *Oakwood*, 348 NLRB at 691-692, the Board discussed the Section 2(11) term "responsibly to direct." The Board held that, for direction to be "responsible," "the person directing and performing oversight of [an] employee must be accountable for the performance of the task by the other, such that some adverse consequence may befall the one providing the oversight if the tasks performed by the employee are not performed properly." *Id.* "Thus, to establish accountability for purposes of responsible direction, it must be shown that the employer delegated to the putative supervisor the authority to direct the work and the authority to take corrective action, if necessary. It also must be shown that there is a prospect of adverse consequences for the putative supervisor if he/she does not take these steps." *Id.*

For direction to be responsible, the person directing and performing the oversight of the employee must be accountable for the performance of the task by the other, such that some adverse consequence may befall the one providing the oversight if the tasks

performed by the employee are not performed properly. *Id.*; *Lynwood Manor*, 350 NLRB 489, 490-491 (2007). The Board has held that accountability was established, for example, where an employer issued written warnings to lead persons because of the failure of their crews to meet production goals or other crew shortcomings. See, e.g., *Croft Metals, Inc.*, 348 NLRB 717, 722 (2006).

Here, the supervisor's incentive program, described above, is the only record evidence that potentially could show that the supervisors are prone to gain some benefit or suffer some adverse consequence depending on how the employees on their respective teams perform their jobs. The record evidence relating to the supervisors' incentive program, however, does not establish accountability as the Board construed that term in *Oakwood*. Employer Exhibits 7 and 8 reflect only that the supervisors' entitlement to the bonus depends on their performance of their own job duties and responsibilities including overseeing the front-line employees, and that their entitlement to the bonus does not depend on how well the front-line employees actually perform their jobs. Nor does the hearing testimony demonstrate that the supervisors' bonus depends on how well the employees perform. In the absence of evidence showing that the supervisors are actually accountable for the employees' performance of their jobs, responsible direction cannot be found to exist. See, e.g., *Entergy Mississippi, Inc.*, 357 NLRB No. 178, slip op. at 5-6 (December 20, 2011) (no responsible direction where evidence showed that putative supervisors were accountable only for their own work). Accordingly, a preponderance of the evidence does not support a finding that supervisors responsibly direct employees.

D. Authority to Reward

The Employer contended at the hearing that the supervisors are statutory supervisors on the grounds that they have the authority to reward employees through their participation in an employee incentive program.⁵ As explained below, the supervisors' involvement in the employee incentive program is not sufficient to establish that they are statutory supervisors.

1. Factual Findings

In addition to supervisors' incentive program, the Employer has a separate employee incentive program for the front-line employees. Under this employee incentive program, an employee – like the supervisors - can earn monthly bonus pay of up to \$100 per month by meeting specified performance standards during the month.

According to Assistant General Manager Jorgensen, the Employer has written documents - similar to Employer Exhibits 7 and 8, discussed above – that set forth the rating criteria. The Employer, however, did not introduce them, or attempt to introduce them, into the hearing record. Accordingly, the only evidence about the front-line employees' incentive program is in the form of witness testimony.

According to the witness testimony, the criteria under the employee incentive program include wearing the proper uniform, keeping the work area clean, completing paperwork accurately, having good attendance, not having any counseling or discipline, taking training courses, and attending monthly meetings with the supervisors.

Assistant General Manager Jorgensen also referred to another standard relating to cashier performance with customers (such as whether the cashier is friendly with

⁵ The Employer did not contend in its post-hearing brief that the petitioned-for employees are statutory supervisors based on the authority to reward employees.

customers), but he did not explain this customer performance standard in detail. Nor did either of the two lane supervisors who testified (Abdul Rahimi and Asfaw Kuture) mention that one of the incentive program criteria involves performance with customers.

On a daily basis, each of the supervisors oversees the employees on his team to determine whether they have met the various criteria under the incentive program. Each of the supervisors is responsible for making daily entries into an electronic computer database to assign employees points on the relevant criteria. The database is laid out as a grid, by category. The supervisor enters points as appropriate for each employee, and also can make comments if appropriate so that other personnel can decide whether or not to add points to the employee's total. The record evidence does not clearly explain the number of points available for each rated element, or what considerations go into assigning a specific number of points for each element. It appears that supervisors give employees one point if they regularly wear the required uniform and no points if they do not regularly wear the uniform. The evidence, however, does not describe how supervisors assign points for the other factors.

After the supervisors enter points for the employees, a payroll supervisor receives the documentation, compiles the data into a single monthly report, and the payroll department issues monthly bonuses to those employees who qualify.

2. Analysis

Contrary to the Employer's contention at hearing, the evidence is not sufficient to establish that the supervisors' role in administering the employee incentive program is more than routine and clerical. As described above, the supervisors make daily entries into a computer database to reflect the points awarded to employees for their performance on several factors. The evidence does not show that the supervisors'

process of entering these points involves the exercise of a significant degree of discretion as to whether the employee deserves points or, if so, how many. In light of the limited scope of the supervisors' authority under the employee incentive program, their participation in rating employees does not make them statutory supervisors.

Of the various factors included in the incentive program database, the factor discussed in most detail in the record was whether employees wore the required uniform. The evidence shows that the supervisor enters either a one or a zero, with a one for wearing the uniform and a zero for not wearing it. The supervisor's determination to enter a one or a zero is straightforward and does not call upon the supervisor to engage in a significant judgmental process of discerning and comparing data to form an opinion or evaluation.

As discussed above, Assistant General Manager Jorgensen alluded to the lane supervisors entering ratings on employees' performance with customers, but Jorgensen did not provide additional detail about this asserted rating and other lane supervisors did not mention it at all. Absent detail, it cannot be said that ratings on such an element involve enough judgment for the supervisors to be considered statutory supervisors. Since the evidence presented by the Employer is inconclusive, the Employer has not sustained its burden of proof that the petitioned-for employees have the authority to reward and exercise independent judgment in doing so. *Phelps Community Medical Center*, 295 NLRB 486, 490 (1989) (when evidence is in conflict or otherwise inconclusive on particular indicia of supervisory authority, supervisory status will not be established on the basis of such indicia.)

E. Authority to Discipline

The Employer contends that the supervisors are statutory supervisors because of their role in disciplining employees. According to the Employer, the supervisors are Section 2(11) supervisors based on actual authority to discipline, and/or on authority to effectively recommend discipline. I find that the supervisors' involvement in disciplining employees falls short of establishing supervisory status.

1. Factual Findings

The collective-bargaining agreement between the Employer and SEIU establishes a progressive discipline system. Article 15.B. provides the following:

The Company agrees to utilize the principles of a progressive disciplinary program (first written warning, second written warning, suspension not to exceed three (3) days or pending completion of investigation of violation and termination). However, for more serious offenses, which shall be listed in the Company rules and furnished to the Union, an Employee may immediately be suspended or terminated depending on the circumstances and severity of the violation. Closely related infractions of Company policies and/or rules may be combined for purposes of progressive discipline depending on the circumstances of the infraction.

Assistant General Manager Jorgensen testified that the Employer relies on the supervisors for disciplinary purposes, because the supervisors are the individuals in the field who oversee the employees. He testified that all of the supervisors have the authority to use their own discretion in issuing written discipline to the employees whom they oversee, for attendance infractions and other matters that fall under the progressive discipline policy except for discharge decisions. He also testified that supervisors can verbally counsel employees in order to give them an opportunity to improve. According to Jorgensen, this verbal counseling does not constitute a step in progressive discipline. In his testimony, however, Jorgensen did not provide much detail about the scope or extent of the discretion involved in this alleged disciplinary

authority. Jorgensen testified about some specific examples of discipline, included in the record as Employer Exhibits 9 through 13, but his testimony did not demonstrate that he had actual involvement in issuing those disciplines or that he had first-hand knowledge of the circumstances therein. He did explain that, as a general matter, Human Resources reviews discipline, for the purpose of making sure that it is appropriate under the applicable policies and rules and that all documentation is in place.

With regard to enforcement of the attendance policy, Jorgensen testified that there is a schedule of attendance infractions and points, which is an Employer attendance policy that SEIU accepted as an addendum to the collective-bargaining agreement, and that the supervisors are responsible for assessing the points required under this policy.⁶

Employer Exhibit 10 includes an example of the attendance tracking form that the supervisors use to track employees' attendance. The form identifies the employee and lists attendance infractions, including the nature of the infraction, the date of the infraction, the number of points assessed for each infraction, and a running tally of the total points accumulated.

Operations Manager Mohamoud Abdulaahi testified, without elaboration or reference to specific examples, that the supervisors do not need to get permission to discipline employees and that they can take such action on their own.

Lane Supervisor Abdul Rahimi testified similarly, in a general way, that he has the authority to write up disciplinary reports for employees when they commit violations

⁶ The record does not include the text of this addendum to the collective-bargaining agreement.

such as attendance infractions, reporting to work without the proper uniform, or sleeping on the job. According to him, he does not need any approval to issue these write-ups, except that he does not have authority to suspend employees without a manager's approval. Rahimi testified that, for attendance violations, there is a prescribed number of points that employees accrue, with the number of points depending on the nature of the infraction and how much advance notice the employee gave. He testified that he keeps track of employees' attendance on the computer, where he maintains and records the attendance points that count against employees.

Traffic Supervisor John Eckart testified that he disciplines using his own discretion, without needing manager approval to discipline. He testified that he notifies managers about discipline that he issues as a courtesy to the managers, and that he consults with Human Resources to make sure that he is following proper procedure. Eckart testified that, regarding attendance, the Employer and SEIU have a policy under which employees accumulate points for attendance infractions. He explained that the level of points dictate the extent and type of discipline for the infraction. Eckart testified that the Employer also has a policy that employees who are not dressed in the proper uniform are sent home. He testified that he follows this policy, but if he quickly can provide the employee with the missing piece of the uniform he will not make employees leave work. Eckart was the only witness to testify about specific examples of discipline in which he was involved as a supervisor (Employer Exhibits 12 and 13, which are discussed further below).

Contrary to the other witnesses, Lane Supervisor Asfaw Kuture testified that as a supervisor he has little authority to discipline employees. He testified that, for a minor employee infraction, he can talk to the employee and then report to the operations

manager. He testified that, for a major infraction, he documents the incident and reports it to the manager, and the manager decides what action to take. According to Kuture, the manager handles the discipline or instructs the supervisor what to do. Kuture testified that the supervisors only report facts to management without even making recommendations about what to do. With regard to attendance, Kuture testified that the supervisors can handle that on their own, because attendance involves mere math calculations, based on the points system for the various sorts of attendance infractions. He testified that, for attendance infractions, Employer policy is that when an employee reaches a certain point value a specified write-up happens. According to Kuture, he can send employees home for not wearing a uniform only if a manager approves it.

In support of Lane Supervisor Kuture's testimony that supervisors lack independent disciplinary authority, Petitioner introduced Union Exhibit 2, which is an e-mail, dated June 20, 2011, from Human Resources Generalist Bobbi Neely to General Manager Isaac Kilgore and other managers and supervisors, stating the following:

Going forward all progressive discipline and warnings must be provided to Human Resources with supporting documentation attached for approval prior to being issued to the employee.

Documents without supporting documentation attached will not be considered. No discipline is to be issued without approval from Isaac and Human Resources.

The same exhibit shows that Training Specialist Michel Jennings asked if that policy applied to the assistant general manager as well, and Neely clarified that not even the assistant general manager could approve discipline.⁷

⁷ The Employer disputes in its brief "that the e-mail constituted a 'policy' or 'procedure' or that the company ever implemented such a policy..." In that regard, the Employer contends that the record evidence belies that the policy or procedure outlined in the e-mail was followed.

In addition to the witness testimony, the hearing record includes exhibits showing five specific examples of supervisors' involvement in disciplining employees. Lane supervisors were involved in two of those disciplines, Traffic Supervisor Eckart was involved in two, and Audit Supervisor Binyam Daba was involved in one. The Employer did not introduce any documentary evidence concerning the involvement in discipline by license plate inventory supervisors or finance supervisors.

Employer Exhibit 9 is a progressive disciplinary warning, dated September 23, 2011, issued to a cashier, Markos Muleta, on the grounds that an audit found no reason for the employee to be short by \$50. Audit Supervisor Binyam Daba and an unidentified manager signed the warning. The discipline was a third and final written warning and suspension for one day. The write-up stated that, per Article 10, Section C of the collective-bargaining agreement with SEIU, the cashier's combined shortage and overage reached \$87, and that he was in violation of the cash-handling policy. Article 10, Section C of the labor contract provides that shortages are "revenue control violations" that are subject to a points system. That provision states that receipt of a third point will result in the employee getting a first written warning, a fourth point will result in a second written warning, a fifth point will result in a final written warning, and a sixth point will result in suspension pending termination. It also states that an accumulation of \$50 in errors or a single error of \$50 or more can result in the bypassing of the above procedures, and may result in discipline up to and including termination. Assistant General Manager Jorgensen testified that the Employer has a policy that any cashier who has an error of \$50 or more gets a one-day suspension. Jorgensen also testified that the audit supervisor's job is to track shortages and

overages, and that the audit supervisor automatically writes up cashiers upon the audit department's discovery of violations that call for discipline under these policies.

Employer Exhibit 10 is an attendance progressive disciplinary warning issued to a cashier, Hanna Aguye, on or about March 12, 2011, for a no call/no show on March 5, 2011. The exhibit reflects that the employee received seven attendance points, a third and final written warning, and a three-day suspension. The written warning shows that a supervisor and a manager signed the warning, but it is not clear who they were. The warning itself states that, in light of the investigative findings, "we are going to proceed with issuing 7 attendance points for NCNS, along with a three day suspension." The record does not include evidence explaining who was involved in deciding upon the discipline in this instance, or why the write-up refers to how "we" are proceeding with the discipline.

Included with Employer Exhibit 10 is a written investigation report from Lane Supervisor Girum Melese, dated March 13, 2011, in which the supervisor explained that Cashier Aguye claimed that the reason for the no call/no show was that she had switched shifts with another employee but an investigation disclosed that her claim was false. The exhibit also includes a written statement that LPI/Lane Supervisor Dean Chavez wrote, dated March 13, 2011, stating that the employee had not submitted a form to switch shifts with another employee.

The lane supervisors who were involved in the circumstances relating to Employer Exhibit 10 did not testify at the hearing. Assistant General Manager Jorgensen testified about Exhibit 10, but he did not offer much detailed first-hand knowledge about the situation. Jorgensen did testify that Lane Supervisor Chavez submitted his written statement to Human Resources. Also, Jorgensen explained that a

no call/no show is an automatic suspension, pursuant to the Employer attendance policy that SEIU accepted as an addendum to the collective-bargaining agreement.

Employer Exhibit 11 is a progressive disciplinary warning issued to a cashier, Mekdes Lemma, on April 27, 2011, for listening to music while on the clock and arguing with the supervisor that she had the right to listen. An unidentified supervisor and an unidentified manager signed the warning. The employee received a second written warning for this violation. Assistant General Manager Jorgensen testified that a lane supervisor issued the warning, but the lane supervisor did not testify. Jorgensen testified that he did not recall the incident described in the warning.

Employer Exhibit 12 is a progressive discipline warning form, dated March 19, 2012, that Traffic Supervisor John Eckart filled out and signed. A line signifying that a manager reviewed the discipline is blank, but Eckart testified that there should have been a signature there and that he thought there may be another copy of the same discipline that includes a manager's signature. The written warning was a first written warning for a traffic agent, Dadale Abdi, for hooking up jumper cables incorrectly on a customers' car battery, thereby damaging the battery. Traffic Supervisor Eckart testified that, as soon as he found out that there was damage to a customer's battery, he immediately brought in an operations manager. Eckart testified that the operations manager was present when he talked to the employee about what she did, and he informed the operations manager that he would take care of handling a write-up while the manager took care of reporting the incident to the City. Eckart testified that, before he wrote out this warning, he checked with Human Resources and determined that the employee did not have any previous written warnings.

Employer Exhibit 13 is another progressive disciplinary warning, dated March 15, 2012, that Traffic Supervisor Eckart filled out and signed. As with Employer Exhibit 12, this exhibit has a line to reflect that a manager reviewed the discipline, but there is no signature on that line. Eckart testified that there should have been a manager signature. The discipline was a third and final warning and two-day suspension to an employee (apparently a traffic agent), Lois Howard, for violating safety procedures by failing to wear a safety vest while walking in traffic. Eckart testified that an operations manager observed the employee's misconduct on a live surveillance camera and directed Eckart to write up the employee. Additionally, Eckart testified that he consulted with the manager before imposing this discipline, because it involved a suspension.

2. Analysis

In concluding that the record does not demonstrate that the supervisors are statutory supervisors, I find that the hearing testimony about the supervisors' disciplinary authority is not adequate to prove supervisory status. As described above, for the most part, the witnesses testified generally, in a very conclusory fashion, that the supervisors discipline employees and that they do so on their own, in an independent manner. Little of this testimony included recitation of or reference to actual detailed facts concerning concrete situations in which the supervisors were involved in disciplining employees. This general testimony was largely disconnected from, and not grounded in, any real-life events involving discipline. Consequently, the hearing testimony is not sufficient to meet the Employer's burden of proving that the supervisors are true supervisors under Section 2(11) based on any authority to discipline.

Furthermore, with regard to testimony about supervisors' authority to discipline based on attendance infractions, the testimony shows only that supervisors engage in a

basically clerical process in which they take note of attendance violations, check a schedule of infractions with defined punishments, and then issue the discipline that the schedule requires. This sort of formulaic process does not involve enough judgment for it to qualify as true supervisory independent judgment.

Assistant General Manager Jorgensen testified that the supervisors can verbally counsel employees and issue opportunity-to-improve notices which are not part of progressive discipline, in order to correct unsatisfactory performance. That evidence, however, does not prove that the supervisors issue supervisory discipline. Absent a demonstration that such counselings result in the issuance of actual discipline, it cannot be said that such verbal counseling is disciplinary in nature. *See, e.g., Ken-Crest Services*, 335 NLRB 777, 777-778 (2001) (authority to issue general counselings is not supervisory discipline).

Traffic Supervisor John Eckart's testimony that supervisors can send employees home also fails to establish supervisory status. Although the authority to send employees home involves disciplinary authority, Eckart's testimony shows that supervisors can send employees home only if they are out of uniform and a fix cannot be implemented quickly and easily. Given these narrow confines within which supervisors have authority to send employees home, it cannot fairly be concluded that they exercise independent judgment in sending employees home.

Additionally, as explained further immediately below, the warning documents that the Employer submitted pertaining to the supervisors' asserted disciplinary authority do not demonstrate convincingly that the supervisors in those situations exercised a sufficient degree of discretion for their judgment to be considered independent, or that they imposed the discipline on their own without involvement by higher management

officials. Such a showing – which is lacking here - is necessary to prove the existence of supervisory status. As discussed above, *Oakwood* requires that, for an individual's judgment to be independent within the meaning of Section 2(11), the individual must act, or effectively recommend action, free of the control of others and form an opinion or evaluation by discerning and comparing data.

Thus, the evidence relating to Employer Exhibit 9 (Audit Supervisor Binyam Daba's progressive disciplinary warning to Cashier Markos Muleta for being short by \$50) shows that a manager signed off on it, indicating that higher management officials may have been involved and that the discipline may not have been an action that the audit supervisor took solely on his own authority. Because no one with direct, first-hand knowledge about this warning testified, the evidence on these issues is inconclusive.

Moreover, the evidence does not show that the audit supervisor had any discretion in determining whether to issue the warning or the level of discipline to be imposed. Rather, in this instance the audit supervisor had to write out the warning because, as Assistant General Manager Jorgensen testified, the Employer's policies and agreements with SEIU call for and require discipline of cashiers with shortages of \$50 or more. There is no evidence to show that an audit supervisor ever found such a violation but decided not to issue discipline for it. Thus, the audit supervisor's issuance of the discipline appears to have been non-discretionary and, therefore, the situation was not one in which he was called upon to exercise enough judgment to qualify as Section 2(11) independent judgment.

With regard to Employer Exhibit 10 (concerning the attendance progressive disciplinary warning to Cashier Aguye for a no call/no show), the evidence indicates that personnel other than the supervisors may have been involved in deciding upon the

discipline. As stated above, the write-up references "we," which suggests the involvement of others in addition to the supervisor. Also, the documents attached to the write-up include an investigative report, and it appears that supervisors submitted documentation to Human Resources. At the very least, the evidence relating to this discipline leaves open the possibility that other managers were involved. Given the uncertainty about whether the supervisor acted alone or under the direction of managers, it cannot be said that the supervisor exercised independent judgment in issuing this warning.

Moreover, in light of Assistant Manager Jorgensen's testimony that a no call/no show automatically results in a suspension, this situation also was one in which the supervisor was not called upon to exercise enough discretion to qualify as Section 2(11) independent judgment.

Regarding Employer Exhibit 11 (involving the progressive disciplinary warning to Cashier Mekdes Lemma for listening to music and arguing with the supervisor about it), there was no testimony from any witness with first-hand knowledge about the situation. Assistant General Manager Jorgensen testified that he did not recall the incident. The record evidence simply does not disclose the actual sequence of events surrounding this disciplinary warning or who was involved in deciding to issue it. Consequently, this exhibit also is not sufficient to prove that a supervisor issued this discipline on his own, without involvement from higher officials, and exercised independent judgment in doing so.

As to Employer Exhibits 11 and 12 (the progressive disciplinary forms that Traffic Supervisor John Eckart issued), Eckart's own testimony establishes that operations managers were involved in those disciplines and that he did not issue the discipline on

his own. Moreover, Eckart's testimony establishes that, for Employer Exhibit 12, an operations manager specifically directed Eckart to discipline the employee.

Union Exhibit 2 – which is the e-mail dated June 20, 2011, from Human Resources Generalist Neely stating that no progressive discipline is to issue without approval from Human Resources and General Manager Kilgore – further tends to undermine the Employer's contention that supervisors possess independent authority to discipline.

As for the Employer's contention that the supervisors effectively recommend discipline, the record does not support that contention either. Under the Board's construction of the Section 2(11) phrase "effectively to recommend," such authority generally means that the recommended action is taken without independent investigation by superiors, not simply that the recommendations ultimately are followed. *See Bellaire Medical Center*, 348 NLRB 940, 954 (2006); *Children's Farm Home*, 324 NLRB 61, 61 (1997). Because, as discussed above, there is an absence of detail surrounding the various instances of discipline included in the record, it is not possible to find - based on concrete rather than conclusory testimony - that the supervisors' input in the disciplinary process is accepted without independent investigation by higher authorities and that the supervisors are the real decision-makers.⁸ Therefore, the record evidence is too equivocal to establish that supervisors possess the independent

⁸ For this reason, the Employer's reliance on *Progressive Transport Services*, 340 NLRB 1044 (2003), and *Mountaineer Park, Inc.*, 343 NLRB 1473 (2004), is misplaced. Unlike here, the evidence in each of those cases was sufficient to demonstrate that the putative supervisor did effectively recommend discipline. In *Progressive Transport*, unlike here, independent judgment was discernable from the narrative language the supervisor used in the numerous disciplinary notices that she issued. Further, the 33 disciplinary actions at issue in *Progressive Transport* addressed a wide variety of employee conduct that would have required some discretion, and there was evidence that the Employer followed the supervisor's recommendations to issue discipline. Also, in this case, unlike the facts in *Mountaineer Park*, there is insufficient evidence to show that supervisors have effectively recommended that a certain level of discipline be imposed.

authority to discipline or to effectively recommend discipline of employees within the meaning of Sec. 2(11) of the Act.

F. Authority to Adjust Grievances

The Employer contends that the supervisors are Section 2(11) supervisors because they possess supervisory grievance-adjustment authority. The Employer relies on the grievance procedure set forth in Article 18 of the collective-bargaining agreement with SEIU, on various aspects of the supervisors' participation in the grievance process, and on the supervisors' involvement in informally resolving employee disputes. As with the other factors discussed above, I find that the supervisors' involvement in the grievance process does not confer Section 2(11) supervisory status.

1. Factual Findings

Article 18 of the collective-bargaining agreement between the Employer and SEIU sets forth a grievance procedure that governs the filing and processing of contractual grievances. Under Article 18, a grievant must file a written grievance with the employee's "immediate supervisor" within specified timeframes. At step one of the procedure, the "immediate supervisor" has the authority to meet on the grievance and attempt to resolve the dispute.

When employees file grievances over discipline, supervisors can be involved in the contractual grievance process where they have knowledge about the underlying events and any discipline that issued. The supervisors attend grievance meetings and participate in them. The record, however, does not provide additional detail about the nature or extent of the supervisors' actual participation in such contractual grievance meetings.

Supervisors can informally resolve disputes involving employees. As an example, the record includes evidence showing that in September 2009 Lane Supervisor Asfaw Kuture talked to two cashiers about a situation in which one of the cashiers aggressively asked the other cashier why she was throwing something smelly into a trash can, which the cashier mistakenly interpreted as him saying that she smelled bad. Kuture talked to the two cashiers, helped them to correct the misunderstanding, and the two cashiers apologized to each other.

2. Analysis

The Article 18 contractual grievance procedure requires a grievant to file a written grievance with the employee's "immediate supervisor" within specified timeframes and provides that, at step one of the procedure, the "immediate supervisor" has the authority to meet on the grievance and attempt to resolve the dispute. Contrary to the Employer's contention, the mere existence of this contractual provision does not establish that the supervisors possess Section 2(11) grievance-adjustment authority. As noted herein, the Board does not base supervisory status determinations on mere "paper authority." *See Golden Crest Healthcare Center*, 348 NLRB 727, 731 (2006).

Moreover, the record does not include evidence that affirmatively shows that the Employer has had its supervisors take on the contractual grievance-adjustment role of the "immediate supervisor." The record does not include any testimony or documentary evidence showing that the Employer actually has charged any supervisor with accepting contractual grievances or that any supervisor actually has accepted such grievances. Nor is there any evidence showing that supervisors actually met with grievants and/or their SEIU representatives to attempt to resolve any disputes. Asfaw Kuture is the only supervisor who actually testified about his authority in the grievance process, and he

testified that he is not aware of any supervisor ever performing the role set forth in the collective-bargaining agreement for the immediate supervisor. Absent affirmative evidence showing that supervisors actually have performed the grievance-adjustment role set forth in the collective-bargaining agreement, there is no basis for concluding that the contractual grievance procedure establishes that the supervisors have supervisory grievance-adjustment authority. See, e.g., *Avante at Wilson, Inc.*, 348 NLRB 1056, 1057-1058 (2006).

The Employer also relies on Assistant General Manager Jorgensen's testimony that in almost all grievances the supervisors "stand" for the Employer and explain why the discipline issued and what happened. This testimony, again, lacks the detail that would be necessary to prove supervisory grievance-adjustment authority. Moreover, this testimony can be read to mean that the supervisors merely provide factual information in the grievance process about the reasons why discipline issued. The testimony is not sufficient to show that the supervisors are the ones who actually adjust the grievances.

Jorgensen also testified that supervisors provide input into what the Employer should do and that the Employer relies on the supervisors' judgment in handling grievances over discipline. This testimony, without more, establishes only that the supervisors may make recommendations as to how the Employer should handle grievances. Alone, that conclusory evidence does not establish that the supervisors have the power to adjust the grievance or that any recommendations they make as to disposition amount to effective recommendations within the meaning of Section 2(11).

The Employer also relies on the evidence showing that Lane Supervisor Kuture talked to two cashiers about the situation in which one cashier made the other cashier

cry by asking about why she was throwing something into a trash can. The evidence shows that Kuture merely intervened informally to mediate between the two cashiers to fix a misunderstanding between them by helping to facilitate communication so that the employees could work out their differences. The Board has held that alleged supervisors' authority to rely on their personal relationships with employees to informally resolve complaints is insufficient to establish supervisory status. See *Ohio Masonic Home*, 295 NLRB 390, 392-394 (1989); *Illinois Veterans Home at Anna L.P.*, 323 NLRB 890, 891 (1997).

G. Monthly Meetings

The Employer also relies on the supervisors' holding of monthly meetings with employees to support its contention that the supervisors are statutory supervisors. I conclude that the holding of such meetings does not make them statutory supervisors.

1. Factual Findings

The record evidence shows that supervisors hold monthly meetings with the employees on their teams. The basic purpose of these meetings is to provide information to the employees. The supervisors pass on information from the assistant general managers and operations managers, and they can bring up any issues that they want to raise. The subject matter of the meetings usually includes work-related issues, such as customer service issues, any problems during the previous month, seasonal safety issues related to inclement or dangerous weather such as tornados, safety issues such as how to handle robberies, the status of any construction projects at DIA that could impact parking, and any other issues that managers or employees raise.

2. Analysis

The supervisors' role in conducting monthly meetings with their team member employees does not confer supervisory status. The authority to hold meetings with employees merely is a secondary indicia of supervisory status, which on its own is insufficient to establish supervisory status. *See, e.g., DirectTV*, 357 NLRB No. 149, slip op. at 2, 4 (December 22, 2011).

CONCLUSION

Based on the foregoing, I conclude that the Employer has not met its burden of proving that the lane supervisors, traffic supervisors, license plate inventory supervisors, finance supervisors, and audit supervisors are statutory supervisors under Section 2(11) of the Act. Accordingly, it is appropriate to direct an election in this proceeding.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by:

TEAMSTERS LOCAL UNION NO. 455

The date, time, and place (or dates, times, and places) of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Direction of Election.

VOTING ELIGIBILITY

Eligible to vote are those in the unit as described above who are employed by the Employer during the payroll period ending immediately preceding the date of this Decision and Direction of Election including employees who did not work during that

period because they were ill, on vacation or 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, in an economic strike which commenced less than 12 months before the election date, employees engaged in such a strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement of that strike and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.

EMPLOYER TO SUBMIT LIST OF ELIGIBLE VOTERS

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within seven (7) days from the date of this Direction of Election, the Employer must submit to the Regional Office an election eligibility list, containing the full name and address of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The list must be sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process,

the names on the list should be alphabetized (overall or by department, etc). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, such list must be received in the Regional Office, National Labor Relations Board, 700 North Tower, Dominion Towers, 600 Seventeenth Street, Denver, Colorado 80202-5433 on or before **September 13, 2012**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by electronic filing through the Agency's website, **www.nlr.gov**,⁹ by mail, or by facsimile transmission to (303) 844-6249. The burden of establishing timely filing and receipt of the list will continue to be placed on the sending party.

Since the list is to be made available to all parties to the election, please furnish a total of two (2) copies of the list, unless the list is submitted by facsimile or electronically, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

NOTICE OF POSTING OBLIGATIONS

According to the Board's Rules and Regulations, Section 103.21, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of three (3) working days prior to the day of the election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and

⁹ To file the list electronically, go to www.nlr.gov and select **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Regulations requires an employer to notify the Board at least five (5) full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

PROCEDURES FOR FILING A REQUEST FOR REVIEW

Pursuant to the Board's Rules and Regulations, Sections 102.111 – 102.114, concerning the service and filing of papers, the request for review must be received by the Executive Secretary of the Board in Washington, D.C., by close of business on **September 20, 2012**, unless filed electronically. **Consistent with the Agency's E-Governing initiative, parties are encouraged to file a request for review electronically.** If the request for review is filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is accomplished by no later than 11:59 p.m. Eastern Time on the due date. Please be advised that Section 102.114 of the Board's rules and Regulations precludes acceptance of a request for review by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file.¹⁰

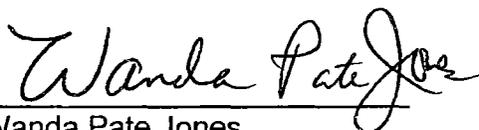
A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

¹⁰ A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as utilized in filing the request with the Board.

Filing a request for review electronically may be accomplished by using the E-Filing system on the Agency's website at www.nlr.gov. Once the website is accessed, select the E-Gov tab, click on E-Filing, and follow the detailed directions. The responsibility for the receipt of the request for review rests exclusively with the sender.

A failure to timely file an appeal electronically will not be excused on the basis of a claim that the receiving machine was off-line or unavailable, the sending machine malfunctioned, or for any other electronic-related reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Dated at Denver, Colorado this 6th day of September, 2012.



Wanda Pate Jones
Regional Director
National Labor Relations Board, Region 27
600 Seventeenth Street
700 North Tower, Dominion Towers
Denver, Colorado 80202-5433

ATTACHMENT

* * *

Section 103.20 Posting of Election Notices.

(a) Employers shall post copies of the Board's official Notice of Election in conspicuous places at least three (3) full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Office in the mail. In all cases, the notices shall remain posted until the end of the election.

(b) The term "working day" shall mean an entire 24-hour period excluding Saturdays, Sundays, and holidays.

(c) A party shall be estopped from objecting to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least five (5) working days prior to the election that it has not received copies of the election notice.

(d) Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under provisions of Section 102.69(a).

Dated, Washington, D.C., June 30, 1987, by direction of the Board.

National Labor Relations Board
Lester A. Heltzer, Executive Secretary

* * *

OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD
REGION 27

In the Matter of: Case No. 27-RC-085144
STANDARD PARKING CORPORATION,
Employer,
And
TEAMSTERS LOCAL UNION NO. 455,
Petitioner.

Place: Denver, Colorado
Dates: July 23, 2012
Pages: 1 through 324
Volume: 1

OFFICIAL REPORTERS
AVTranz
E-Reporting and E-Transcription
845 North 3rd Avenue
Phoenix, AZ 85003
(602) 263-0885

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 27

In the Matter of:
STANDARD PARKING CORPORATION,
Employer,
and
TEAMSTERS LOCAL UNION NO.
455,
Petitioner.

Case No 27-RC-085144

The above-entitled matter came on for hearing, pursuant to notice, before **ISABEL C. SAVELAND, Hearing Officer**, at the National Labor Relations Board, 600 17th Street, Suite 700N, Denver, Colorado 80202-5433, on **MONDAY, JULY 23, 2012, at 9:09 a.m.**

AVTranz
845 North 3rd Avenue, Phoenix, Arizona 85003
www.avtranz.com (800) 257-0885

A P P E A R A N C E S

On behalf of the Employer:

BRETT A. HARVEY, ESQ.
STANDARD PARKING
900 North Michigan Avenue, Suite 1600
Chicago, Illinois 60611
Tel. 312-274-2041

On behalf of the Petitioner:

LINDA M. COTE, ESQ.
TEAMSTERS LOCAL UNION NUMBER 455
10 Lakeside Land, Suite 3-A
Denver, Colorado 80212
Tel. 303-458-1600

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Thomas Jorgensen	20	95			39/45
Mohamoud Abdulaahi	68	73			
Abdul Rahimi	144	150			
John Eckart	160	168	181	183	
Asfaw Kutuzre	186	252	304		

EXHIBITS

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
Board:		
B-1(a) through 1(d)	6	6
B-2	6	6
Employer:		
E-1	38	42
E-2	38	42
E-3	38	42
E-4	38	42
E-5	38	42
E-6	43	46
E-7	52	52
E-8	52	55
E-9	55	57
E-10	60	63
E-11	65	67
E-12	163	164
E-13	165	165
E-14	289	289
E-15	288	292
E-16	292	304
Petitioner/Union:		
U-1	231	236
U-2	238	2343

PROCEEDINGS

1
 2 HEARING OFFICER SAVELAND: The hearing will be in order.
 3 This is a formal hearing in the matter of Standard Parking
 4 Corporation, case number 27-RC-085144, before the National
 5 Labor Relations Board. The Hearing Officer appearing for the
 6 National Labor Relations Board is Isabel C. Saveland.
 7 All parties have been informed of the procedures at formal
 8 hearings before the Board by service of a statement of standard
 9 procedures with the notice of hearing. I have additional
 10 copies of this statement for distribution if any party wants
 11 more.
 12 Will counsel please state their appearances for the
 13 record? For the Petitioner?
 14 MS COTE: Linda Cote, C-O-T-E, General Counsel, Teamsters
 15 Local Union 455 in Denver, Colorado.
 16 HEARING OFFICER SAVELAND: Okay. For the Employer?
 17 MR. HARVEY: Brett Harvey, Employment Attorney for
 18 Standard Parking Corporation.
 19 HEARING OFFICER SAVELAND: For the Intervenor, there's no
 20 Intervenor. Are there any other appearances? Let the record
 21 show there's been no further response.
 22 Okay, I now propose to receive the formal papers. Okay,
 23 the formal papers have been marked for identification as
 24 Board's Exhibit 1(a) through 1(d), inclusive. 1(d) being an
 25 index and description of the entire exhibit. The exhibit has

1 been shown to all parties.
 2 Are there any objections to the receipt of these exhibits
 3 into the record?
 4 MR. HARVEY: No
 5 MS. COTE: No objection.
 6 HEARING OFFICER SAVELAND: Hearing no objections, the
 7 formal papers are received into evidence.
 8 **(Board Exhibit Number 1(a) through 1(d) Received into Evidence)**
 9 HEARING OFFICER SAVELAND: Okay, the parties to this
 10 proceeding have executed and I have approved a document which
 11 is marked as Board Exhibit 2. That exhibit contains a series
 12 of stipulations including among other items that the Petitioner
 13 is a labor organization within the meaning of the act. There
 14 is no contract bar and the Employer meets the jurisdictional
 15 standards of the Board.
 16 Are there any objections to the receipt of Board Exhibit
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 18 MR. HARVEY: No.
 19 MS. COTE: None.
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 2 MS. COTE: None for the -- oh, sorry
 3 MR. HARVEY: We reiterate our general objection to this
 4 hearing going forward at all today. You want to make a
 5 statement on the record for it or?
 6 HEARING OFFICER SAVELAND: If you'd like to, sure. Go
 7 ahead.
 8 MR. HARVEY: Okay All right. So before we address the
 9 merits of today's hearing, I note for the record that Standard
 10 Parking Corporation objects to today's hearing and has
 11 significant concerns over the Board's refusal to grant a
 12 reasonable postponement to allow the company to properly
 13 prepare for this hearing.
 14 By way of background, the NLRB sent notice of today's
 15 hearing to Standard Parking Corporation General Manager Isaac
 16 Kilgore on a letter dated July 13th, 2012. Mr. Kilgore was on
 17 vacation at the time and did not return to work until Thursday,
 18 July 19th.
 19 In the afternoon of July 17th, 2012, Ms. Isabel Saveland
 20 contacted my office to inform me that Teamsters Local 455 had
 21 filed a representation petition but didn't specify which
 22 employee the Union sought to represent. We were also informed
 23 that the election was or the hearing was scheduled for July
 24 23rd.
 25 I made a timely written request for a postponement due to

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2

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3

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2 request. On July 18th, 2012, I requested that Ms. Saveland
3 identify the employee subject to the petition so that I could
4 properly prepare for the hearing. By the end of business on
5 Thursday, July 19th, I understood that the employees at issue
6 were lane supervisors. But I requested a firm clarification
7 from the National Labor Relations Board.

8 On Friday, July 20th, the last business day before today's
9 hearing, the NLRB informed me that there were five different
10 supervisory positions at issue. I again requested a
11 postponement because of the large number of job classes, each
12 of which entails different duties and employees and given the
13 extremely late notice by the NLRB. My request was again
14 denied.

15 I note for the record and for purposes of appeal, that the
16 NLRB's failure to provide the job classifications at issue
17 today until the day before the hearing and the unreasonable
18 refusal to provide a modest extension of time to prepare for
19 the case is extremely prejudicial to the company's position.
20 Because of late notice, the company cannot bring various
21 witnesses who would testify to the duties performed by
22 supervisors at Denver International Airport, thereby placing
23 the company at a significant disadvantage in a case with far
24 reaching consequences. The circumstances surrounding this case
25 place the company in a position that it cannot fairly or

1 thoroughly present its case.

2 HEARING OFFICER SAVELAND: Okay, thank you.

3 Ms Cote, do you want to respond at all to the motion made
4 by counsel?

5 MS. COTE: Yes, on our best information and belief, there
6 is no position at the Denver location of Standard Parking that
7 has supervisor in its title other than the five that have now
8 been detailed. So in terms of the petition, it says
9 supervisors. It's including all of the five classifications
10 identified.

11 HEARING OFFICER SAVELAND: Okay. At this time, I'll be
12 denying your motion for a postponement. But it's noted for the
13 record. Are there any other motions that we need to take care
14 of right now prehearing?

15 None for the Employer?

16 MS. COTE: No, thank you.

17 HEARING OFFICER SAVELAND: For the Petitioner? Okay.

18 Are there any motions to intervene in these proceedings to
19 be submitted to the Hearing Officer at this time? Are the
20 parties aware of any other employers or labor organizations
21 that have an interest in this proceeding? The Hearing Officer
22 hears no response.

23 Will the Employer please state its full and correct name
24 for the record?

25 MR. HARVEY: Standard Parking Corporation.

1 HEARING OFFICER SAVELAND: Okay Just a moment. Let me
2 make sure we have the correct name on the --

3 MR. HARVEY: My trust has some extra letters.

4 HEARING OFFICER SAVELAND: Yeah, it looks like the
5 stipulation which is General Counsel's Exhibit Number 2 (sic)
6 has a typo on there. So are there any objections to having the
7 petition and other formal papers amended so that the name of
8 the Employer will correctly appear in the captions thereon as
9 Standard Parking Corporation?

10 MR. HARVEY: No objection.

11 MS. COTE: This is, I'm sorry, on the petition?

12 HEARING OFFICER SAVELAND: On the stipulation.

13 MS. COTE: Oh, no, on the stipulation. No objection of
14 course.

15 HEARING OFFICER SAVELAND: Okay, hearing no objection, the
16 amendment is allowed. Can it be stipulated that the Employer's
17 engaged in commerce within the meaning of the National Labor
18 Relations Act and is subject to the jurisdiction of the
19 National Labor Relations Board and that the commerce facts are,
20 excuse me, one moment. Can you please -- actually I will move
21 on since we have the stipulation already.

22 And Teamsters Local Union number 455 is the correct and
23 complete name of the Petitioner that appears on the petition,
24 is that correct, Petitioner?

25 MS. COTE: That's correct.

1 HEARING OFFICER SAVELAND: Okay. Will the parties
2 identify the issues for hearing and their positions on each
3 issue. Let's begin with the Employer

4 MS. COTE: May I ask first, sorry, for a procedural
5 clarification?

6 HEARING OFFICER SAVELAND: Sure.

7 MS. COTE: Does the Board wish a copy of any subpoenas
8 that were issued on behalf of the Petitioner?

9 HEARING OFFICER SAVELAND: No, not at this time.

10 MS. COTE: Okay. And could you inform me please how to
11 address the Chair. Is this Madam Hearing Officer?

12 HEARING OFFICER SAVELAND: Hearing Officer is fine.

13 MS. COTE: Okay, thank you.

14 HEARING OFFICER SAVELAND: So let's begin with identifying
15 the issues that we'll be putting on evidence for here at
16 hearing and we'll begin with the Employer.

17 MR. HARVEY: As I understand the issue is whether the five
18 identified employee groups are eligible for coverage under the
19 National Labor Relations Act or alternatively whether they are
20 excluded from coverage under the Act.

21 HEARING OFFICER SAVELAND: Okay. And just to be clear, I
22 think we were off the record when we actually named the
23 supervisors.

24 MR. HARVEY: That would be --

25 HEARING OFFICER SAVELAND: So we have LPI supervisor.

1 MR. HARVEY: Correct.

2 HEARING OFFICER SAVELAND: Lane supervisor.

3 MR. HARVEY: Correct.

4 HEARING OFFICER SAVELAND: Traffic supervisor.

5 MR. HARVEY: Correct.

6 HEARING OFFICER SAVELAND: Finance supervisor.

7 MR. HARVEY: Correct.

8 HEARING OFFICER SAVELAND: Lot supervisor

9 MR. HARVEY: Audit supervisor.

10 MS. COTE: Audit.

11 HEARING OFFICER SAVELAND: Audit. Sorry. I thought we

12 went through it. Okay. And what is your position with respect

13 to the supervisory status of these classifications, Employer?

14 MR. HARVEY: We're presented here today with a really

15 simple and straightforward case. Teamsters Local 455 has filed

16 a petition to represent various groups of Standard Parking

17 Corporation supervisors who are unequivocally excluded from

18 coverage under the National Labor Relations Act. Here, the

19 documenting evidence and the witness testimony will establish

20 without doubt that the employees that Teamsters seeks to cover

21 are bona fide supervisors whose sole job is to perform

22 supervisory functions at Denver International Airport.

23 The evidence will clearly demonstrate that everyone of the

24 employees performs supervisory functions including but not

25 limited to disciplining other employees, assigning employees

1 schedules, directing all aspects of the work of the employees

2 they supervise, adjusting and/or recommending action related

3 grievances and providing input into employee rewards.

4 Moreover, the evidence will establish that these

5 supervisors have significant independence to permit them to use

6 their discretion in determining how to direct the employees

7 they supervise. In short, the company will demonstrate that

8 the employees at issues are supervisors who are excluded from

9 coverage by the National Labor Relations Act.

10 HEARING OFFICER SAVELAND: Okay. And Petitioner, same

11 thing for you. Can you please give me -- identify your

12 position as far as the five named classifications that we're

13 discussing here today?

14 MS. COTE: Yes, ma'am. Teamsters Local Union 455 seeks an

15 election on its proposed unit, Standard Parking supervisors.

16 The five have been identified in detail moments ago. While the

17 individuals who hold these positions have supervisor in their

18 job titles, they are not supervisors as defined under the

19 National Labor Relations Act Section 152, paragraph 11. The

20 Standard Parking positions are the LPI supervisors which stands

21 for licensed plate supervisors, lane supervisors, traffic

22 supervisors, finance supervisors, audit supervisors. The

23 evidence will show that these individuals act as lead men, not

24 statutory supervisors.

25 The National Labor Relations Board of course is familiar

1 with the concept of lead men and as the evidence developed, we

2 are confident that the Chair, Madam Hearing Officer, will find

3 that these individuals have supervisors in their title but that

4 it is an illusory title.

5 These positions are involved with the parking lot and

6 garages at Denver International Airport LPI supervisors

7 oversee LPI agents Lane supervisors oversee cashiers.

8 Traffic supervisors oversee traffic agent and dispatch.

9 Finance supervisors oversee clerks including vault and FD

10 clerks. And audit supervisors oversee audit clerks. These

11 supervisors report to operations managers who report to

12 assistant general managers who report to the general manager in

13 the Denver operation.

14 The evidence will show that these positions do not have

15 the authority to hire, transfer, suspend, layoff, recall,

16 promote, discharge, assign, reward, or discipline others. Or

17 responsibly to direct them other than a follow of a mere

18 routine. And that their functions relative to manager's

19 efforts as regards the foregoing is clerical in nature with

20 checks to computer printouts, timecards and that kind of data.

21 They assemble data, they fill in forms with the data, they

22 forward it on to managers who make decisions regarding these

23 matters.

24 In terms of any kind of overseeing of the employees, the

25 employees who they oversee are Union employees. There are

1 policies developed by the companies in terms of discipline,

2 attendance, tardiness, et cetera, which these supervisor lead

3 men, however want to phrase it, have to comply with. And any

4 decisions they make are -- fall within the prescriptions of

5 these various policies. And therefore, it is the Union's

6 position that these supervisors entitle -- are in title only

7 and do not fall under the purview of the exclusion from the

8 National Labor Relations Act.

9 HEARING OFFICER SAVELAND: Okay, thank you. Okay, please

10 be aware that because supervisory status involves a statutory

11 exclusion, the party seeking to exclude the employees on these

12 bases bears the burden of proof. You must present specific

13 detailed evidence in support of your position. General

14 conclusory statements by witnesses will not sufficient.

15 Can the party -- can the Employer stipulate that there is

16 no collective bargaining history between these two parties?

17 MR. HARVEY: Between the Teamsters --

18 HEARING OFFICER SAVELAND: Between the Teamsters 455 and

19 Standard Parking with reference to these employees. There's no

20 collective bargaining history?

21 MR. HARVEY: Not between these employees, no.

22 HEARING OFFICER SAVELAND: Okay.

23 MR. HARVEY: Yes, we can stipulate to that.

24 HEARING OFFICER SAVELAND: So can you stipulate to that.

25 Same with the Petitioner, can you stipulate that there's no

1 bargaining history with respect to the employees you're
 2 petitioning for in Standard Parking?
 3 MS. COTE: That is correct.
 4 HEARING OFFICER SAVELAND: Okay. Are there any petitions
 5 pending in other regional offices involving other facilities of
 6 the Employer at this time that you're aware of?
 7 MR. HARVEY: No, not that I'm aware of.
 8 HEARING OFFICER SAVELAND: Okay. Can it be stipulated
 9 that there is no --
 10 MS. COTE: Ma'am.
 11 HEARING OFFICER SAVELAND: I'm sorry.
 12 MS. COTE: There are ongoing things in other locales in
 13 which the supervisors are --
 14 HEARING OFFICER SAVELAND: That you're aware of.
 15 MS. COTE: -- yes, involved with Standard Parking.
 16 HEARING OFFICER SAVELAND: Okay. With the same unit?
 17 Same classifications?
 18 MS. COTE: Not identical but included in the unit, yes.
 19 For example, Los Angeles, California, supervisors are and have
 20 been recognized as included in a unit there.
 21 HEARING OFFICER SAVELAND: But is it pending right now or
 22 is that something that's already been concluded?
 23 MS. COTE: No, it's concluded.
 24 HEARING OFFICER SAVELAND: Okay.
 25 MS. COTE: Doesn't exist in contract.

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1 HEARING OFFICER SAVELAND: Okay. Can we go off the record
 2 for one minute?
 3 THE COURT REPORTER: Yes, absolutely.
 4 HEARING OFFICER SAVELAND: Thanks. Okay, so it's my
 5 understanding that there's not going to be any sort of
 6 stipulation as to who's included in the unit --
 7 (Off the record at 9:26 a.m.)
 8 THE COURT REPORTER: On this new system Okay, we're
 9 back.
 10 HEARING OFFICER SAVELAND: Okay.
 11 MS. COTE: Will you recite those again?
 12 HEARING OFFICER SAVELAND: Yes, I'm going to actually on
 13 the record.
 14 MS. COTE: Thank you.
 15 HEARING OFFICER SAVELAND: The parties are not willing to
 16 stipulate to any inclusions in the unit, but they will
 17 stipulate to exclusions. As all other employees, office
 18 clericals, managers, guards, professionals and supervisors as
 19 defined in the Act. Of course here, the five classifications
 20 we're discussing, the question is whether they are statutory
 21 supervisors or not.
 22 Okay. So just to recap, it's my understanding today that
 23 the issues to be litigated are whether the LPI supervisors,
 24 lane supervisors, traffic supervisors, finance supervisors and
 25 audit supervisors, if any of those classifications or all of

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1 those classifications are statutory supervisors Is that
 2 correct?
 3 MR. HARVEY: Corer.
 4 HEARING OFFICER SAVELAND: Is that correct, Petitioner?
 5 MS. COTE: Yes.
 6 HEARING OFFICER SAVELAND: Whether they're statutory
 7 supervisors?
 8 MS. COTE: Yes, ma'am.
 9 HEARING OFFICER SAVELAND: Okay. Are there any other
 10 issues that I am unaware of at this point? Petitioner? Any
 11 other issues that you are aware of?
 12 MS. COTE: No, thank you.
 13 HEARING OFFICER SAVELAND: Okay. Employer?
 14 MR. HARVEY: No.
 15 HEARING OFFICER SAVELAND: Okay. Employer, can you please
 16 present your first witness?
 17 MR. HARVEY: Okay. Tom Jorgensen. Before we call him, I
 18 have a question on procedure.
 19 HEARING OFFICER SAVELAND: Sure.
 20 MR. HARVEY: I have for example all the job descriptions.
 21 Do you want that as one exhibit. Then we go through each of
 22 them or do you want me to introduce every single one separately
 23 because Mr. Jorgensen is going to be able to speak to those.
 24 HEARING OFFICER SAVELAND: He's going to speak to all of
 25 them? Okay. You know, you can do whichever way you want. If

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1 you want to present them all at once and that way you can let
 2 -- can we go off the record for a minute?
 3 THE COURT REPORTER: Sure.
 4 HEARING OFFICER SAVELAND: Sorry.
 5 MR HARVEY: That's all right.
 6 HEARING OFFICER SAVELAND: If you want to give them all to
 7 Petitioner so that she can review them all at once, that might
 8 be quicker than doing them one by one as he identifies them.
 9 MR. HARVEY: Okay.
 10 HEARING OFFICER SAVELAND: And just let me know when
 11 you're done looking at those, Ms. Cote.
 12 MS. COTE: Thank you.
 13 (Off the record at 9:30 a.m.)
 14 HEARING OFFICER SAVELAND: So we ready to go back on the
 15 record?
 16 MR HARVEY: Yes, we are.
 17 HEARING OFFICER SAVELAND: Okay. Mr. Jorgensen, I need
 18 you to stand up. I'm going to swear you in. Are we on the
 19 record? Okay, please raise your right hand.
 20 Whereupon,
 21 THOMAS JORGENSEN
 22 having been duly sworn, was called as a witness herein and was
 23 examined and testified as follows:
 24 HEARING OFFICER SAVELAND: Okay. Please state your name
 25 and spell it for the record.

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1 THE WITNESS: Thomas Jorgensen, T-H-O-M-A-S J-O-R-G-E-N-S-
2 E-N.

3 HEARING OFFICER SAVELAND: Thank you. Your witness.

4 DIRECT EXAMINATION

5 Q BY MR. HARVEY: Good morning, Mr. Jorgensen. Could you
6 briefly describe what your position is with Standard Parking
7 Corporation?
8 A I'm the assistant general manager. So I am directly above
9 the operations managers and directly below the general manager,
10 Isaac, in the day to day operations and making sure everything
11 is going as it should.
12 Q Okay So what kind of duties do you perform in a typical
13 day?
14 A In a typical day, I basically oversee the managers below
15 me to make sure that everything that we're supposed to turn
16 into the City is turned in, make sure that we're in compliance
17 with our requirements with them as well as making sure that all
18 of our necessary reporting is being turned in to the company.
19 Q And does your job require you to do any personnel
20 functions?
21 A Yeah, I have to assist where needed with HR or help
22 negotiate through any issues with employees, be they management
23 or not
24 Q And I sort of jumped ahead. So it's clear on the record,
25 what does Standard Parking do at Denver International Airport?

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1 A We do our best to oversee the parking operations for the
2 City of Denver at the Denver International Airport.
3 Q So does Standard Parking own the parking there?
4 A Nope
5 Q What is the function or what is the relationship between
6 Standard Parking and the City of Denver?
7 A We are contractors.
8 Q Okay. So would it be fair to say that the City is the
9 company's client?
10 A Yes.
11 Q Now I -- you have some documents in front of you that I
12 had labeled as Employer Exhibit 1.
13 A Uh-huh.
14 Q And it's a stack of documents but I'd like to go through
15 each of these and ask what, if anything, you know about the
16 documents. And the first item I'd like to direct your
17 attention to is four pages and it says main responsibilities at
18 the top. Do you see that document?
19 A Yep.
20 Q You want to take a look at it?
21 A Not really.
22 Q Okay. You're familiar with it. What is it?
23 A This is the overall job description for the lane
24 supervisors. It's actually the more detailed job description
25 that goes into additional clarification when we're going

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1 through any questions with new supervisors regarding what their
2 duties might be. And it was actually originally worked up the
3 first portion of it, the first three pages, as an overview for
4 all of the supervisors. So I know it's being used here as a
5 lane supervisor job description. But there are one or two
6 things on here such as on the fourth bullet point down
7 designate vehicle lot assignments where applicable. It doesn't
8 apply to lane supervisors, but does to traffic supervisors. So
9 but the vast majority of these job functions are things that
10 lane supervisors will carry out through the course of their
11 work.
12 Q And do you know who developed this document?
13 A It was developed and modified a couple times over the
14 years. The original core of it, the main bullet points was
15 original to when we took over this contract and we actually
16 built that largely out of either what our contract
17 administrator said that the supervisor's duties were and in
18 speaking to the current supervisors that we were hiring on from
19 the previous contractor.
20 Q Okay. And then looking at this, you said it refers to
21 lane supervisors. Are you familiar with what lane supervisors
22 do in a typical day?
23 A Yes, sir.
24 Q And does this position description accurately reflect what
25 the supervisors do?

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1 A Yeah, not everything on here. Some things they're going
2 to do every day. We like to hope that disciplinary measures
3 are not needed every day. But yes, any one of these things
4 could happen during the course of their day.
5 Q And you mentioned disciplinary action. So I direct your
6 attention to the third page of this document. And there are
7 several bullet points there at the top of the page. And when
8 you referenced discipline, was that based on the bullet point
9 there that says issue progressive discipline steps?
10 A Yeah, the progressive disciplinary steps and the
11 disciplinary warnings for attendants.
12 MS. COTE: Excuse me. I only have -- oh, I'm sorry. I
13 think I have the wrong document. I think -- you said it's four
14 page, sir?
15 MR. HARVEY: Yes, it's the main responsibilities.
16 MS. COTE: And you're referencing page 3?
17 MR. HARVEY: Correct. If they're not numbered.
18 MS. COTE: Sorry. I'm sorry to interrupt. Thank you.
19 Q BY MR. HARVEY: So in terms of issuing discipline, do the
20 lane supervisors need to get permission from anybody else
21 before issuing discipline?
22 A No.
23 Q Are they -- you have full authority to issue discipline?
24 A Yep.
25 Q And their discretion to issue discipline?

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1 A Yep.

2 Q Now what about scheduling and documenting break times, is
3 that something that the supervisors do as well?

4 A The schedules, they build every day on their shift for the
5 shift that's going to follow. And the break times is the
6 responsibility of each supervisor overseeing their specific
7 area to make sure everybody gets their full breaks throughout
8 the course of the day.

9 Q Okay. And in terms of these lane supervisors, who do they
10 supervise?

11 A The lane supervisors supervise the cashiers primarily and
12 these days they also have oversight in the or they may have
13 oversight over what we call LPR clerks or licensed plate review
14 clerks if those clerks are stationed in their area.

15 Q And what type of oversight does that entail between the
16 lane supervisors and the cashiers?

17 A Making sure that they're doing their jobs correctly.
18 Answering questions if they need, you know, help with anything.
19 Monitoring to see if they're doing everything they should. If
20 they're wearing their uniforms. If they're processing
21 transactions correctly.

22 Q And do the supervisors need to get permission from
23 somebody above them in the organization to do these duties?

24 A No.

25 Q Now I see that on the second page here, there's a bullet

1 point second from the bottom that says authorizing
2 countersigned promissory notes. What is that?

3 A Promissory notes are what we use if a customer is unable
4 to pay their parking fee or their full parking fee, if they
5 can't, then a supervisor will go out and fill out a promissory
6 note which is basically a promise to pay the City what they owe
7 them and once they get all the documentation and it's filled
8 out correctly and the customer signs it, then the supervisor
9 will also sign.

10 Q Do the cashiers have the authority to do that?

11 A The cashiers do not.

12 Q All right. Does the supervisor need to get permission from
13 somebody else in order to issue the promissory note?

14 A If it's a high amount promissory note, then they have to
15 clarify it through a manager to make sure we want to go ahead
16 with it. If it's \$800, we're probably going to tell the
17 customer no. But if for the majority of them, no, they do not
18 need to ask anybody.

19 Q And about how many employees do the lane supervisors
20 supervise in a given shift?

21 A In a given shift, it could be, you know, during a busy
22 season upwards of ten. A minimum of three or four.

23 Q All right. And then I'd like to -- moving on in that
24 stack of documents, there is following the first four pages, a
25 two page document entitled job description. Do you see that?

1 A Uh-huh. For traffic supervisors.

2 Q For traffic supervisors. Did you have a chance to look at
3 that?

4 A Yep.

5 MS COTE: Did you say audit?

6 MR. HARVEY: Traffic.

7 MS. COTE: Traffic. Okay.

8 Q BY MR. HARVEY: Do you recognize this document?

9 A Yes, I do

10 Q What is it?

11 A This is a job description that was developed for the
12 traffic supervisors.

13 Q And are you familiar with what traffic supervisors do on a
14 day to day basis?

15 A Yes.

16 Q And does this job description accurately reflect what a
17 traffic supervisor does?

18 A Yes.

19 Q And specifically, what duties do the traffic supervisors
20 perform?

21 A The traffic supervisor makes sure that the lots are
22 closing when they need to close. If they start to get full, we
23 have to, you know, make sure that more people aren't trying to
24 park where there aren't spaces. They make sure that all the
25 signage is up and directing people where they need to be. And

1 they make sure that the traffic agents are doing what they need
2 to be doing to meet those goals.

3 Q And what specifically would a traffic supervisor do to
4 make sure that agents are meeting the goals?

5 A They may go behind and do backup counts to make sure
6 they're counts are being turned in accurately. Check to make
7 sure everybody is actually in the lots that they're supposed to
8 be in when they're supposed to be in them. May go around if
9 they're supposed to be signs up saying that a lot is closed, he
10 may go through and check that they are in fact out and that the
11 correct signs are being used.

12 Q And do they direct any employees?

13 A Yes. If something is not being done correctly or if we
14 need additional counts or if we need something changed from our
15 day to day procedures, say one lot is getting heavier traffic,
16 then they will readjust who is working where to post additional
17 employees where we need them most.

18 Q And do they -- do the traffic supervisors need to obtain
19 permission to do that from anybody?

20 A No.

21 Q And what about disciplining employees? Do they have the
22 ability to do that?

23 A Yes.

24 Q And again, do they need to ask permission in order to
25 issue discipline?

1 A No.

2 Q What kind of discipline can they issue?

3 A They can issue discipline for whatever the situation

4 needs. If the traffic supervisors are out in the lot and they

5 see one of the agents doing something they shouldn't be doing

6 and it's something that they should be written up for, then

7 they can come in if it's, you know, at whatever step is next in

8 the progressive disciplinary procedure, they can come in and

9 issue that.

10 Q And does what they say go as -- I mean for example if they

11 recommend or they want to impose a one day suspension, do they

12 have to get permission from somebody to do that?

13 A No. As long as it's what's warranted for the case, then

14 they are -- they're always clear.

15 Q All right. Moving forward, there's a --

16 HEARING OFFICER SAVELAND: Actually, can I interrupt here.

17 I just have a couple of questions about -- are we still on

18 traffic supervisor because we're kind of flying through all the

19 classifications. If I can ask you just a couple questions off

20 of what you were just talking about, the discipline. You

21 mentioned something about progressive discipline. Do you have

22 a progressive disciplinary system in place where you work?

23 THE WITNESS: Yeah. Companywide we have a progressive

24 disciplinary warning system.

25 HEARING OFFICER SAVELAND: And so is that written

1 somewhere for the traffic supervisors where they can reference

2 it if they need to?

3 THE WITNESS: Yes, there are handbooks as well as for the

4 supervisors when they discipline unit employees, they also have

5 copies available to them of the collective bargaining

6 agreement.

7 HEARING OFFICER SAVELAND: So are these employees that the

8 traffic supervisor supervises, are they represented by a Union?

9 THE WITNESS: Yes.

10 HEARING OFFICER SAVELAND: So there's a collective

11 bargaining agreement they have to go to when issuing

12 discipline, correct?

13 THE WITNESS: Yes.

14 HEARING OFFICER SAVELAND: Okay. And does that spell out,

15 you know, whether it goes from oral to written to how many

16 written warnings they may have? How specific is that if you

17 know?

18 THE WITNESS: It is a little bit vague as to when they

19 should be a different -- it spells out the progressive

20 disciplinary steps if its, you know, verbal warning, written

21 warning, second written warning, suspension. The only part

22 that it actually doesn't spell out is does not define what

23 constitutes a classification of a write-up. So if it's a

24 second for something they've already done or a first for

25 something new.

1 HEARING OFFICER SAVELAND: Okay. And for the lane

2 supervisors, are they also supervising employees that have

3 collective bargaining agreement?

4 THE WITNESS: Yes.

5 HEARING OFFICER SAVELAND: So they also have to deal with

6 that collective bargaining unit agreement when it comes to

7 discipline?

8 THE WITNESS: Yes.

9 HEARING OFFICER SAVELAND: And is it the same collective

10 bargaining agreement for both sets of employees?

11 THE WITNESS: Yeah.

12 HEARING OFFICER SAVELAND: Okay. So they're dealing with

13 the same disciplinary system under both of those?

14 THE WITNESS: Correct.

15 HEARING OFFICER SAVELAND: Okay. Just really quickly.

16 Oh, what are backup counts?

17 THE WITNESS: Backup counts, if a lot is filling really

18 quickly, we need to be really confident that our counts are

19 accurate. And so we may do one or several backup counts to

20 make sure that our -- what we think we have as available space

21 is what we actually have.

22 HEARING OFFICER SAVELAND: Okay. And how many, I guess we

23 haven't discussed this. How many different lots do you -- does

24 your operation run at DIA?

25 THE WITNESS: We oversee eight total lots.

1 HEARING OFFICER SAVELAND: Okay. And is that -- can you

2 name them?

3 THE WITNESS: We have the shuttle lots, Pikes Peak and Mt.

4 Elbert. We have the west economy, east economy, west garage,

5 east garage, west short term, east short term.

6 HEARING OFFICER SAVELAND: Okay. Sorry, I'm just looking

7 at my little -- oh, when we were talking about the I believe

8 the lane supervisors on page 2, you discussed the authorizing

9 and countersigning of these promissory notes.

10 THE WITNESS: Correct.

11 HEARING OFFICER SAVELAND: What's the procedure for one of

12 these supervisors to sign off on a promissory note? Like do

13 they just have to talk to them and say this guys looks legit or

14 are they checking IDs, are they doing any additional

15 investigation?

16 THE WITNESS: They have to check IDs. They have to talk

17 to the customer and make sure that the mailing address is

18 current because any -- some IDs have for rural areas may have a

19 physical address but they can't receive mail there. So they

20 have to make sure we have a mailing address. If there's no

21 IDs, they have to find something else to document that that

22 person is in fact who they say they are and that they own that

23 car. If there's nothing else, then they have to try to contact

24 somebody who can, you know. Oftentimes we'll bring out the DPD

25 to confirm that the car is, you know, belongs to them. And

1 then if everything checks out as far as what the promissory
 2 note requires, then they just go ahead and process it and --
 3 HEARING OFFICER SAVELAND: About how often do you think in
 4 a month that this comes up where there's a promissory note
 5 issue?
 6 THE WITNESS: It varies a little bit but we have between
 7 five and ten a day.
 8 HEARING OFFICER SAVELAND: Okay.
 9 THE WITNESS: So it's a fairly frequent occurrence.
 10 HEARING OFFICER SAVELAND: Okay. And then one other
 11 thing. You were talking about if it was an \$800 bill, then they
 12 might not be able to okay it. Is there a specific number
 13 amount, a threshold amount before that supervisor, the lane
 14 supervisor needs to go to his supervisor and ask for an okay?
 15 THE WITNESS: Since I'm not the direct report of them, I
 16 honestly don't get that call very often. I don't know off the
 17 top of my head what it is.
 18 HEARING OFFICER SAVELAND: So you don't know if there's a
 19 threshold? Okay
 20 THE WITNESS: I know there is a threshold. I just can't
 21 tell you what exactly it is.
 22 HEARING OFFICER SAVELAND: Okay, so there is a number.
 23 But you're just not aware of where they have to kick it up the
 24 line? Okay. That's all my questions for now.
 25 Q BY MR. HARVEY: Continuing with the discipline that these

1 supervisors impose, are they locked into steps. Or do they
 2 have some discretion based on the circumstances in a particular
 3 case?
 4 A They have some discretion. If it's something particularly
 5 serious, for traffic supervisors a vehicular accident for
 6 anybody, you know, if people are fighting or if somebody is
 7 just flat refusing to do their job and you know walking away.
 8 If it's something that's severe, then we can always, you know,
 9 make it a higher step adjunct to a suspension or a final
 10 warning.
 11 Q All right. Going forward in that stack of documents that
 12 I gave you, there's a third document entitled job description
 13 It's two pages. And it's got a title of LPI supervisor on it.
 14 Do you see that document?
 15 A Yes, I do.
 16 Q Do you recognize it?
 17 A Yep.
 18 Q And what is that?
 19 A This is our job description for the license plate
 20 inventory supervisors
 21 Q Okay. And generally speaking, what does a license plate
 22 inventory supervisor do?
 23 A They oversee the license plate inventory agents, make sure
 24 that they are doing their jobs correctly. They will perform
 25 audits on their accuracy to make sure LPI agents have the

1 requirement of 97 percent accuracy and a speed of 500 cars an
 2 hour and so it's up to the LPI supervisor to do those audits to
 3 make sure they're meeting their goals. They'll also handle any
 4 disciplinary matters that come up through the course of an
 5 evening.
 6 Q And in terms of the employees that the LPI supervisors
 7 oversee, are those employees in a Union, too?
 8 A Yes.
 9 Q All right. So with -- we've talked now, this is the third
 10 type of supervisor that we've talked about. Do these
 11 supervisors have any role in the grievance procedure?
 12 A Yes, since the supervisors are typically either the
 13 issuing agents of the original progressive disciplinary warning
 14 or, you know, the primary person who's notifying if the
 15 supervisor is not comfortable issuing it, they are key in
 16 almost all of the grievances to stand for the company and
 17 explain why it was issued and what happened.
 18 Q Do you sit in on grievances?
 19 A Not if I don't have to.
 20 Q Have you done it?
 21 A Yes.
 22 Q And have you attended one with one of these supervisors?
 23 A Yes.
 24 Q And do you -- did the supervisor give input into what the
 25 company should do in that case?

1 A Absolutely.
 2 Q And did you take that into consideration?
 3 A Yes, the supervisors are the ones that are there seeing
 4 everything happen and making the decisions. You know, if I'm
 5 in my office, there's very little that I can see. So we rely
 6 entirely on the supervisors and their judgment for almost all
 7 of our disciplinary steps.
 8 Q And just a final question on these LPI supervisors. Does
 9 this job description accurately reflect what they do?
 10 A Yes.
 11 Q It's kind of broad but --
 12 A It is. It could use some more detail but --
 13 Q All right. Continuing forward to the next two page
 14 document. It says job description at the top of finance
 15 supervisor. Do you see that document?
 16 A Yes.
 17 Q Do you recognize it?
 18 A Yes.
 19 Q What is it?
 20 A This is the job description for the finance supervisors.
 21 Q Okay. And just take me through what a finance supervisor
 22 might do in a typical day?
 23 A The finance supervisors work out of the main vault. They
 24 oversee the vault clerks, master clerks and occasionally some
 25 of the OPR clerks and front desk clerks. They handle any

1 matters that come up in the vault, specifically that the vault
 2 clerks are unsure of how to handle. They also answer questions
 3 for the master clerks when they're going through putting
 4 together our daily paperwork. They have special access to
 5 areas of the revenue control system and credit card clearing
 6 house that nobody else has. So they go in and clear up any
 7 issues that say a master clerk sees that there's a credit card
 8 transaction missing. It's really up to the finance supervisors
 9 to go in, look at the system and see what happened.

10 Q And so do these finance supervisors direct the employees
 11 that they oversee?

12 A Yes, they do.

13 Q And do they discipline them?

14 A When needed.

15 Q Do they need to get permission from anybody in order to
 16 issue discipline?

17 A No.

18 Q And moving forward then to the final two pages, a document
 19 that says job description with job title audit supervisor. Do
 20 you see that document?

21 A I do.

22 Q Do you recognize it?

23 A I do.

24 Q What is that?

25 A This is the job description for our audit supervisor.

1 Q And what do audit supervisors do?

2 A They oversee the audit department, make sure that they are
 3 -- have everything they need to do their jobs, answer
 4 questions, discipline where needed, provide direction and issue
 5 out the daily assignments.

6 Q And does this job description accurately reflect what the
 7 audit supervisors do?

8 A Yes.

9 Q Okay. And do the audit supervisors need to get permission
 10 from anybody in order to direct the employees that they
 11 oversee?

12 A No.

13 Q Do they have the discretion to make assignments as they
 14 deem appropriate?

15 A Yes.

16 Q And to discipline?

17 A Yes.

18 Q And so we have seen then these five position descriptions
 19 for the jobs that are at issue today. I'd like to introduce
 20 another document that I'm going to label as Employer Exhibit 2.

21 MR. HARVEY: Hearing Officer --

22 THE COURT REPORTER: I had it as 6. One for each.

23 MR. HARVEY: Okay.

24 HEARING OFFICER SVELAND: Okay, you want to name each one
 25 of them different numbers? Okay. That's easy enough

1 MR. HARVEY: Okay.

2 HEARING OFFICER SVELAND: Did you catch that, Linda?

3 MS. COTE: Yes, could we --

4 HEARING OFFICER SVELAND: Each one of those job
 5 descriptions is going to have a different number.

6 MS. COTE: Could we go ahead and review them to make sure
 7 we have them in the right order?

8 HEARING OFFICER SVELAND: Sure. Let me -- so we're going
 9 to have Employer's 1 going to be that four page document that
 10 says main responsibilities at the top.

11 **(Employer Exhibit Number 1 Marked for Identification)**

12 THE COURT REPORTER: Uh-huh.

13 HEARING OFFICER SVELAND: 2 would be job description
 14 traffic supervisor.

15 **(Employer Exhibit Number 2 Marked for Identification)**

16 THE COURT REPORTER: Yes, ma'am.

17 HEARING OFFICER SVELAND: 3 is going to be traffic, I'm
 18 sorry, LPI supervisor.

19 **(Employer Exhibit Number 3 Marked for Identification)**

20 HEARING OFFICER SVELAND: 4, finance supervisor.

21 **(Employer Exhibit Number 4 Marked for Identification)**

22 HEARING OFFICER SVELAND: And 5, audit supervisor. And
 23 are you offering these into evidence?

24 **(Employer Exhibit Number 5 Marked for Identification)**

25 MR. HARVEY: Yes, I am. I didn't know if you wanted me to

1 do that all at the end or if you want me to --

2 HEARING OFFICER SVELAND: You can do it now.

3 MR. HARVEY: Okay.

4 HEARING OFFICER SVELAND: Ms. Cote, do you have any
 5 objection to any of those documents going into evidence?

6 MS. COTE: May I voir dire?

7 HEARING OFFICER SVELAND: Which one or on all of them?

8 MS. COTE: Yes.

9 HEARING OFFICER SVELAND: Sure.

10 **VOIR DIRE**

11 Q BY MS. COTE: Mr. Jorgensen, are these job descriptions
 12 posted anywhere?

13 A They are available -- I think they're included in the
 14 individual guidebooks for each of those positions, which are
 15 available in the training office as well as originally there
 16 were some in all of the work locations. I cannot say that I've
 17 checked recently to make sure those haven't disappeared. But
 18 they are all available either in the training office or upon
 19 request by the employees.

20 Q So it's safe to understand that these are not distributed
 21 to the supervisors at the time that they're hired?

22 A When they're hired, these are actually what we post as the
 23 job openings so that the potential new hires understand what
 24 would be expected of them. And it's reviewed with them during
 25 their orientation and training period.

1 Q So the answer to my question is no, it's not given to
2 them? It's reviewed with them?

3 A No, it's given to them as a part of the -- they've given
4 the training manual and various documentation that they need to
5 know what their job is.

6 Q And in preparation for the hearing today, do you know
7 whether modifications have been made to any of these?

8 A The 2 through 5 are exactly as they are in the files. The
9 lane supervisor one as I mentioned at the beginning was not
10 done specifically as a lane supervisor. It has a few
11 additional bullet points added for clarification for Brett and
12 others who are less familiar with our supervisors and their
13 duties.

14 Q Okay. So to verify then with Company number 1, which is
15 the main responsibilities, there have been modifications made
16 to this document in preparation for the hearing today, correct?

17 A Correct. The interior bullet points, some of those have
18 been added. The exterior bullet points, the main subjects are
19 all the original explanations of the job duties. And that the
20 last pages with the requirements and the disclaimers are all
21 part of the original document as well.

22 Q And just to be clear, Company Exhibit 1 is a document
23 that's generally applicable to all supervisory job
24 descriptions, is that correct?

25 A The majority of supervisors share many responsibilities as

1 far as, you know, distributing assignments amongst their teams,
2 locations, where they work, discipline, all of that. There are
3 things on this one as it was originally the lane supervisor job
4 description.

5 Q Uh-huh.

6 A That other people don't do. Traffic supervisors for
7 example do not write promissory notes. But there are I believe
8 two items on there that are not lane supervisor
9 responsibilities.

10 Q So I understood that Company 1 was -- that your testimony
11 was that Company 1 is generally applicable to all supervisors?

12 A You'll notice amongst all of the job descriptions that the
13 majority of them main responsibilities are focused on the same
14 things, which is overseeing their teams, handling their
15 incentives, their attendance, their discipline, their job
16 assignments, answering questions where needed, providing
17 assistance for difficult issues.

18 MS. COTE: I guess we'll have to go into this more in
19 cross-examination. But I would object to Company number 1
20 being introduced on the basis that this document was definitely
21 modified and tweaked in perhaps very significant ways in order
22 to prepare for the hearing today. It doesn't necessarily bear
23 any relationship to the actual job and work being done by the
24 supervisors there.

25 HEARING OFFICER SVELAND: Any response?

1 MR. HARVEY: Well, he actually -- Mr. Jorgensen just
2 testified that this is what those employees do. And that this
3 is an accurate statement of their duties and that they do those
4 jobs.

5 HEARING OFFICER SVELAND: Okay. Ms. Cote, at this time,
6 I'm going to allow the document to go into evidence. You know,
7 you'll have plenty of opportunity to cross-examine and the
8 Hearing Officer will give it the proper weight that it
9 deserves.

10 **(Employer Exhibit Number 1 Received into Evidence)**

11 MS. COTE: Thank you.

12 HEARING OFFICER SVELAND: And on the other documents, no
13 objection?

14 MS. COTE: No objection.

15 HEARING OFFICER SVELAND: So all the other documents are
16 admitted into evidence as well.

17 **(Employer Exhibit Number 2 - 5 Received into Evidence)**

18 **DIRECT EXAMINATION CONTINUED**

19 Q BY MR. HARVEY: Now going to present to you, Mr.
20 Jorgensen, what I'm labeling as Employer 6.

21 **(Employer Exhibit Number 6 Marked for Identification)**

22 Q BY MR. HARVEY: And Mr. Jorgensen, I'd like you to take a
23 look at that document please. Have you seen this before?

24 A Yep.

25 Q What is it?

1 A This is a portion of our contract with the City and County
2 of Denver.

3 Q And what is the -- what does this portion of the contract
4 relate to?

5 A This is the specific contractual requirements of
6 supervisors.

7 Q Okay. And who set those forth?

8 A This was set forth by the City.

9 Q Okay. And if you look at the first page of the two page
10 document, it refers to many of the supervisors that we spoke
11 about earlier this morning, correct?

12 A Yes.

13 Q And what bearing does this document, if any, have on the
14 positions that the company fills?

15 A This was one of the two primary sources used to create the
16 job descriptions we reviewed earlier. And gave us an overall
17 guideline in what we needed to do for hiring and what the
18 minimum as far as the client was concerned that those people
19 should be performing.

20 Q Okay. So this is a contractual requirement?

21 A Yes.

22 Q All right. So looking the accounting supervisor in item A
23 there, did that require that the accounting supervisor does
24 supervisory work?

25 A Yeah.

1 Q And do the accounting supervisors in fact do supervisory
2 work?
3 A Yes.
4 Q Looking at item B, the license plate inventory supervisor,
5 what do you understand the City's expectations for that
6 position to be?
7 A That the supervisor will in fact supervise the LPI
8 personnel itself and that they will basically be the catchall
9 of all of the various lots that are inventoried and the person
10 putting it together making sure it's accurate.
11 Q And do the license plate inventory supervisors in fact
12 perform those duties?
13 A Yep.
14 Q Looking at item C, you have a traffic supervisor. What do
15 you understand the City's expectations to be concerning that
16 position?
17 A That they are overseeing the traffic employees and making
18 sure that they are doing everything that they need to and that
19 the lots are closed at the thresholds set by the City. And
20 that all our signage is accurate.
21 Q And moving down to D, lane supervisor, what do you
22 understand the City's expectations to be concerning that
23 position?
24 A To oversee all of the cashiers, helping customers where
25 needed. Making sure that we have staffing that meets our

1 schedule that we have approved with the City. And that
2 everything is there to allow the cashiers to do their jobs and
3 help the City's customers.
4 Q Now do you know what would happen if Standard Parking
5 decided they didn't want to fill these positions?
6 A We would be in a whole lot of trouble.
7 Q And what kind of trouble would that cause?
8 A Breach of contract. I'm sure it would cost us some money
9 and probably cost us the contract itself.
10 Q Okay. So these -- to be clear, these supervisors are
11 specific contractual requirements between the City and the
12 company?
13 A Yes, they are.
14 MR. HARVEY: Okay. Offer to move that in. That exhibit
15 in.
16 HEARING OFFICER SAVELAND: Ms Cote, any objection?
17 MS. COTE: Well, I'd like to voir dire.
18 HEARING OFFICER SAVELAND: Sure.
19 **VOIR DIRE**
20 Q BY MS. COTE: In terms of this particular provision, where
21 did this come out of?
22 A That comes from our contract with the City and County of
23 Denver.
24 Q And do you know who drafted this section of the contract?
25 A I do not.

1 MS. COTE: I object to the admission of Company Exhibit 6
2 if it is admitted for the purpose of stating contractual
3 requirements by the City as opposed to contractual functions
4 suggested by Standard Parking. We have no known origin for
5 these functions or what, if any, these descriptions have to do
6 with City requirements.
7 HEARING OFFICER SAVELAND: Okay.
8 MR. HARVEY: Mr. Jorgensen just testified to what those
9 requirements are, what the source of the document is and that
10 he's familiar with both the document and the processes.
11 HEARING OFFICER SAVELAND: Okay. I'm going to admit it
12 over objection. Once again, Ms. Cote, you'll have time on
13 cross-examination to explore Mr. Jorgensen's knowledge of the
14 document. And the Hearing Officer will give it the proper
15 weight.
16 **(Employer Exhibit Number 6 Received into Evidence)**
17 MS. COTE: Thank you.
18 HEARING OFFICER SAVELAND: Thanks.
19 **DIRECT EXAMINATION CONTINUED**
20 Q BY MR. HARVEY: Okay. I'm going to introduce now a
21 document I'm labeling Employer Exhibit 7.
22 **(Employer Exhibit Number 7 Marked for Identification)**
23 THE WITNESS: Thank you.
24 Q BY MR. HARVEY: Mr. Jorgensen, I'd like you to take a
25 look at Employer Exhibit 7 please. You have a chance to look

1 at that?
2 A Uh-huh.
3 Q I think I might actually break this into two exhibits.
4 The first item I'd like you to look at as Employer's Exhibit 7
5 is a four page document that says lane LPI traffic incentive
6 program details.
7 A Okay.
8 Q Do you recognize that document?
9 A I do.
10 Q And what is it?
11 A As a part of their duties, supervisors are eligible for a
12 monthly bonus of up to \$100 based on their performance in the
13 meeting of certain criteria. This is the document that
14 outlines that criteria.
15 Q And looking down to the middle, about the middle of that
16 first page there, it says employee incentive.
17 A Yes.
18 Q What does that mean?
19 A Part of what the criteria that the supervisors are judged
20 on, the individual hourly employees, the front line employees,
21 all have a similar incentive program for a bonus monthly. And
22 it is up to the supervisors in each department to oversee their
23 team and make sure that they're doing what is required of them
24 to get their own bonus and whether or not they're completing
25 the employee incentive information has weight on if whether the

1 supervisor gets their full bonus or not.
 2 Q And so then is it fair to say that the supervisor
 3 evaluates the employees performance for the monthly incentive?
 4 A Yes.
 5 Q And based on that evaluation, does the supervisor have the
 6 ability to make the reward?
 7 A Yeah. What they fill in for the individual employees is,
 8 you know, they're the ones with all of the information. If the
 9 information they put in says the employee doesn't get a bonus,
 10 the employee doesn't get a bonus.
 11 Q So they have the ability to withhold the bonus as well?
 12 A Yes, through their documentation that they turn in, yeah.
 13 Q And what type of procedures go into evaluating the
 14 employee?
 15 A Monitoring them daily, making sure that they're in their
 16 uniforms, that they have everything they need to perform their
 17 job duties, that they are -- that their paperwork is accurate.
 18 That their attendance is good as well as documenting any
 19 disciplinary steps that may result in a cost to their incentive
 20 points. Or any -- if they received any what we call
 21 opportunity to improve notices, which is basically a counseling
 22 based on procedural areas that the individual employees make.
 23 If the employees don't get any of those, then they get a bonus
 24 through their incentive points and it's up to the supervisors
 25 to go through that and document all of those.

1 Q And now is there anybody overseeing the supervisors or
 2 managing the supervisors on a day to day basis in this
 3 capacity?
 4 A No.
 5 Q So they're using their own discretion?
 6 A Yes.
 7 MR HARVEY: Okay. I'll offer that into evidence.
 8 Exhibit 7.
 9 HEARING OFFICER SAVELAND: Just to be clear, that's a four
 10 page document you said or three?
 11 MR. HARVEY: Yeah, it should be -- how many do you have?
 12 MS. COTE: Four.
 13 HEARING OFFICER SAVELAND: Four.
 14 MS. COTE: No, I'm sorry, yeah four.
 15 HEARING OFFICER SAVELAND: Ms Cote, your position on
 16 Employer 7?
 17 MS. COTE: If I could have a moment?
 18 HEARING OFFICER SAVELAND: Sure And while she's looking
 19 at that, let me ask you a question.
 20 THE WITNESS: Okay.
 21 HEARING OFFICER SAVELAND: I'm confused and I probably
 22 missed it. The incentive program is for the supervisors or for
 23 the supervisor's employees?
 24 THE WITNESS: They both have an incentive program. So the
 25 employees have a monthly incentive that the supervisors perform

1 and complete for them and then this is the criteria then for
 2 the supervisor's incentives.
 3 HEARING OFFICER SAVELAND: Okay. So this doesn't -- this
 4 document doesn't have the criteria for what the employees that
 5 they supervise --
 6 THE WITNESS: No, no this is just for the supervisors
 7 personal program.
 8 HEARING OFFICER SAVELAND: Okay. And so whose supervising
 9 these supervisors? Who's deciding to give them the incentive?
 10 THE WITNESS: The operations managers.
 11 HEARING OFFICER SAVELAND: The operation -- and that's --
 12 you're an operations manager?
 13 THE WITNESS: No, I'm an assistant general manager.
 14 HEARING OFFICER SAVELAND: You're -- okay.
 15 THE WITNESS: Yeah.
 16 HEARING OFFICER SAVELAND: Okay. Ms. Cote.
 17 MS. COTE: Well, the Union would object to the admission
 18 of Company 7 in that it has no relevancy to the issue at hand.
 19 This has -- this describes functions of managers who the Union
 20 does not seek to have included in the unit.
 21 HEARING OFFICER SAVELAND: Okay.
 22 MR. HARVEY: The document's completely relevant because it
 23 demonstrates that the supervisors have the ability to reward
 24 employees for doing work -- doing work well and at the same
 25 time they have the ability to withhold an incentive and its

1 within their discretion. So it's entirely relevant.
 2 HEARING OFFICER SAVELAND: Okay.
 3 MS. COTE: Well, I don't see the relevance when this is
 4 talking about the supervisors incentive program details and
 5 what the operations managers look to in order to decide whether
 6 or not the supervisory positions get a bonus. So it's
 7 describing the function of a manager who is not designated to
 8 be included in the unit according to the Union's petition.
 9 HEARING OFFICER SAVELAND: One quick question on my part
 10 before I go back to Ms Cote What did a traffic LPI and lane
 11 supervisors -- do they get monetary rewards for hitting these
 12 goals?
 13 THE WITNESS: Yes, if they meet their goals, they get up
 14 to a \$100 a month.
 15 HEARING OFFICER SAVELAND: And it's a different program
 16 than is applied to the other employees?
 17 THE WITNESS: Correct.
 18 HEARING OFFICER SAVELAND: Other classifications?
 19 THE WITNESS: Correct, they have different criteria by
 20 which they would get their bonuses.
 21 HEARING OFFICER SAVELAND: Okay, I'm going to allow this
 22 document in, Ms. Cote, over objection but your objection is
 23 noted for the record.
 24 **(Employer Exhibit Number 7 Received into Evidence)**
 25 Q BY MR. HARVEY: Turn your attention to what I'm now going

1 to be calling Employer Exhibit 8.
 2 **(Employer Exhibit Number 8 Marked for Identification)**
 3 Q BY MR. HARVEY: It is a three page document that says
 4 audit finance supervisor incentive program details. Did you
 5 have a chance to look at that one, Mr. Jorgensen?
 6 A Yes, I did.
 7 Q Do you recognize it?
 8 A Yes, I do.
 9 Q And what is it?
 10 A As with the last one, this is the criteria by which the
 11 audit and finance supervisors would get their bonuses including
 12 of course again whether or not they're completing their
 13 incentives for their teams. The clerks, all of the different
 14 clerks, have their own criteria by which they would get their
 15 monthly incentives. And then this is including that the audit
 16 and finance supervisors are also required to complete their
 17 individual front line employee teams in order to get their own
 18 bonuses.
 19 Q And so is it similar then to the lane LPI traffic
 20 supervisor incentive program?
 21 A Very much so.
 22 Q And it includes the employee portion as well, excuse me,
 23 where they are rewarding or withholding rewards for the
 24 employees who comply with procedure?
 25 A Yes.

1 Q Okay.
 2 HEARING OFFICER SAVELAND: And where is that? Can you
 3 just point out to me exactly where? Okay. So where it says
 4 employee incentive, that's actually referring to the employees
 5 that they're --
 6 THE WITNESS: That they've overseeing, their teams.
 7 HEARING OFFICER SAVELAND: Okay. To their teams. But
 8 then the other stuff applies to them?
 9 THE WITNESS: Right.
 10 HEARING OFFICER SAVELAND: As audit supervisors?
 11 THE WITNESS Right. Then there's -- I mean the team
 12 meetings here also applies to whether they're giving the team
 13 meetings to their individual teams that they oversee.
 14 HEARING OFFICER SAVELAND: Okay. So that applies to the
 15 audit finance supervisor?
 16 THE WITNESS. Correct.
 17 HEARING OFFICER SAVELAND: Okay.
 18 Q BY MR. HARVEY: And what are those team meetings?
 19 A The team meetings are a monthly opportunity for the
 20 supervisors to disseminate information to the front line
 21 employees, to the cashiers, clerks, traffic agents. It's
 22 something that there may be specific items that one of the
 23 operations managers or one of the assistant general managers
 24 will decide needs to be given based on something we've seen in
 25 the operation. And then each individual supervisor is given

1 whatever the manager thinks is necessary and given an
 2 opportunity to add anything additional to it that they feel
 3 that their own teams need from what they've seen and then they
 4 have to get that information out to the employees that they
 5 directly oversee and then make sure that everybody fully
 6 understands the information in those meetings.
 7 Q Okay And do they do that -- do the supervisors do that
 8 with a manager or are they on their own doing it?
 9 A Nope, there are -- they're given the information that they
 10 need to include and a deadline.
 11 Q And is it fair to say that the supervisor's receipt of
 12 these incentives hinges at least in part on them successfully
 13 managing the employees that they oversee?
 14 A Yes, it does.
 15 MR. HARVEY: Okay. I want to move Exhibit 8 into evidence
 16 please.
 17 MS. COTE: I have the same objection. This again relates
 18 to the -- it's a description of the incentive program for the
 19 supervisors. I think what would be appropriate is the
 20 incentive program for the clerks, not supervisors.
 21 HEARING OFFICER SAVELAND: Okay. I'm going to allow it
 22 in.
 23 **(Employer Exhibit Number 8 Received into Evidence)**
 24 Q BY MR. HARVEY: And I'm going to try to move things along.
 25 I'm going to introduce a couple of documents related to

1 discipline. And the first will be Employer Exhibit 9.
 2 A Thank you.
 3 MS. COTE: Is this whole packet going to be 9?
 4 MR. HARVEY: Yes.
 5 **(Employer Exhibit Number 9 Received into Evidence)**
 6 HEARING OFFICER SAVELAND: And I actually have a document
 7 called Ricky Helpren (phonetic), the write up for him. Is that
 8 by mistake or -- I'm not sure what we're going to do about --
 9 MS. COTE: Is this supposed to say Ricky?
 10 HEARING OFFICER SAVELAND: No, I had I think an erroneous
 11 one.
 12 MR. HARVEY: No, no, no.
 13 MS. COTE: Oh. Marcos.
 14 HEARING OFFICER SAVELAND: Mine says Franklin.
 15 MR. HARVEY: Yes.
 16 Q BY MR. HARVEY: Have you had a chance to look at that
 17 document, Mr. Jorgensen?
 18 A Yep.
 19 Q What is it?
 20 A This is a progressive disciplinary warning for a cashier
 21 for a shortage.
 22 Q And do you know who issued that?
 23 A That was issued by it looks like Binyam Daba, who is the
 24 audit supervisor.
 25 Q Okay. And how does this process work in terms of the

1 supervisor issuing this discipline?
 2 A In this particular instance, one of the audit supervisor's
 3 job is to track shortages and overages as they occur and come
 4 through the audit department A part of the collective
 5 bargaining agreement states that write-ups exceeding \$50 in I
 6 believe it's a three month period require a write-up for a six
 7 month period -- require a write-up and once he sees that
 8 somebody has that either in a single instance or in cumulative
 9 instances, then he will write the document and issue the write-
 10 up.
 11 Q So did the supervisor need to get permission to issue this
 12 discipline?
 13 A Nope.
 14 Q And he didn't have to get it approved by anybody?
 15 A Nope.
 16 Q I do see that there's a signature at the bottom. It says
 17 reviewed by manager.
 18 A That is primarily for our recordkeeping purposes to make
 19 sure that everything is done before we file it away. It's done
 20 so that if there's a grievance proceeding following it, that
 21 somebody, usually the HR coordinator, has made sure that the
 22 appropriate documentation is all there and we don't need
 23 anything else. And that the supervisor didn't, you know,
 24 forget to include anything.
 25 Q Okay. So this is not an authorization?

1 A No, it's not permission. It's more a follow-up review
 2 than anything.
 3 Q Okay. Now what are the documents that are attached to
 4 that first page?
 5 A The documents attached to the first page, first is an
 6 opportunity improvement notice that basically notifies them of
 7 the \$50 instance, which would -- you'll notice there's two
 8 numbers on the write-up itself. This was -- fell under both
 9 qualifications as being a single issue of \$50 as well as
 10 approaching them at 87 total. So this is a copy of the shift
 11 report on which they had that shortage and the notice that was
 12 given to the employee to inform them of the shortage.
 13 Q Okay. And do you know if this suspension was opposed?
 14 A Yes. Yes, it was.
 15 MR. HARVEY: I'll move that into evidence.
 16 MS. COTE. No objection.
 17 HEARING OFFICER SAVELAND: 8's (sic) admitted into
 18 evidence.
 19 (Employer Exhibit Number 9 Received into Evidence)
 20 HEARING OFFICER SAVELAND: I have a question. What is
 21 this opportunity for improvement notice track record?
 22 THE WITNESS: The top portion of the page before that,
 23 this is a copy of what they get for any procedural errors. We
 24 use it for shortages and overages as well as if it's just a
 25 documentation thing. If they're missing tickets or if they

1 forgot to sign something. So this then is the spreadsheet that
 2 the finance or the audit supervisor uses to track, you know,
 3 when the shortages occurred, when the opportunity to improve
 4 was actually issued, if it was brought back. The supervisor of
 5 the employee themselves and then the amount. So that's how
 6 he's then able to get his totals to know. If it's cumulative
 7 rather than a single incidence when they reach that point.
 8 HEARING OFFICER SAVELAND: So for this Markos Muleta, he
 9 was cumulative over a long period -- over all these instances,
 10 it all added up to \$50?
 11 THE WITNESS Actually, it kind of fell under both because
 12 this particular instance was \$50.
 13 HEARING OFFICER SAVELAND: Okay.
 14 THE WITNESS: On the opportunity, you've got where it says
 15 the shortage was 50.
 16 HEARING OFFICER SAVELAND: Okay.
 17 THE WITNESS: So this would have resulted in one by
 18 itself. But yes, you can see from this sheet that he was
 19 already high without that and may have resulted in one had it
 20 been only a \$20 shortage.
 21 HEARING OFFICER SAVELAND: And the \$50 threshold is set
 22 forth by the article in the collective bargaining agreement
 23 that he signs?
 24 THE WITNESS: Correct.
 25 HEARING OFFICER SAVELAND: Okay. And then how does he

1 know to -- does the -- and I'm sorry, I don't know what you
 2 said the audit supervisor's name was.
 3 THE WITNESS: Binyam Daba.
 4 HEARING OFFICER SAVELAND: Daba.
 5 THE WITNESS: Daba.
 6 HEARING OFFICER SAVELAND: Okay, how does he figure out
 7 whether it's the first or second notification?
 8 THE WITNESS: If it's anytime that it's a suspension, it's
 9 a final warning basically. If there was any instances beyond
 10 this, if Markos had been short \$50 again, that would have been
 11 grounds for termination. So this is an instance where it did
 12 not matter how many shortages there had been before, as he
 13 reached that threshold, it was automatically a final warning.
 14 HEARING OFFICER SAVELAND: Okay. And that's set by the
 15 collective bargaining agreement?
 16 THE WITNESS: That's actually more a matter of policy.
 17 The collective bargaining agreement says that anything \$50 or
 18 greater is --
 19 HEARING OFFICER SAVELAND: An actionable --
 20 THE WITNESS: -- actionable offense up to termination.
 21 HEARING OFFICER SAVELAND: Okay. And then the company has
 22 decided that that's a one day suspension if you hit that \$50.
 23 THE WITNESS: Yeah.
 24 HEARING OFFICER SAVELAND: Okay. Your witness.
 25 Q BY MR. HARVEY: And just to get clarification, how does

1 the supervisor know? Like in this case, how would a supervisor
2 know that there was an incident in the past?

3 A Because the audit supervisor keeps that check record, the
4 running total of any shortages so that they can see within the,
5 you know, the period required how many shortages there have
6 been total.

7 MR. HARVEY: Okay. I already offered that in.

8 HEARING OFFICER SAVELAND: Right And I believe there was
9 no objection, correct?

10 MS. COTE: That's correct.

11 HEARING OFFICER SAVELAND: Okay. That'll be admitted into
12 evidence.

13 Q BY MR. HARVEY: Mr. Jorgensen, I'm handing you now what
14 I'm going to refer to as Employer Exhibit 10.

15 **(Employer Exhibit Number 10 Received into Evidence)**

16 Q BY MR. HARVEY: Like you to take a look at that for me
17 please. Have you had a chance to look at that?

18 A Yes.

19 Q And what is it?

20 A This is a write-up for a suspension for a traffic agent I
21 think. Was she a traffic agent then?

22 Q Okay. And what was the purpose of this document?

23 A This was an attendance matter. This was a no call/no
24 show. So this is automatically a suspension.

25 Q Okay. And who issued that suspension?

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1 A I honestly don't know whose initials those are.

2 Q Is it a supervisor, do you know?

3 A Yes.

4 Q And was -- did the supervisor need to get authorization to
5 issue this discipline?

6 A No.

7 Q Do you know if the employee was in fact suspended?

8 A Yes, she was.

9 Q What is the -- the reference in there, it's you had a
10 mutual. What does that mean?

11 A A mutual is kind of a shorthand term we use for a mutual
12 shift trade agreement. If there's two cashiers or two
13 employees who want to trade days off for some emergency,
14 they've got a doctor's appointment or something, then they can
15 agree to trade that shift as a one-time occurrence.

16 Q And who oversees that?

17 A That is the individual employees request it and then that
18 goes through a supervisor to see if they have any objections to
19 it based on that person's history. And then that would
20 actually go to either the -- an ops manager or the payroll
21 supervisor or even myself if nobody else is available to put
22 that onto the schedule and give it its final resting place in a
23 binder.

24 Q Okay. And do they need to get -- do the supervisors need
25 to get authorization to allow those mutuals to occur?

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1 A They don't. We do have the right to veto them if we know
2 something they don't. But they can approve them.

3 MR. HARVEY: Okay. All right. I'll offer to move
4 Employer 10 into evidence.

5 HEARING OFFICER SAVELAND: Ms. Cote, any objection?

6 MS. COTE: I'm sorry, you said this has to do with a
7 traffic agent?

8 THE WITNESS: I believe so. What was the date? This
9 particular person actually changed classifications at some
10 point in her time with us. She could still be a cashier at
11 this point in time.

12 HEARING OFFICER SAVELAND: If she's not a cashier, what
13 would she be or do you know?

14 THE WITNESS: She would be -- oh, it says on the final
15 page, that she was a cashier at this point.

16 MS. COTE: Yeah, that's what I was noticing. She was a
17 cashier and yet it's a lane supervisor who has some sort of
18 notation here?

19 THE WITNESS: That would be Dean Chavez who was her lane
20 supervisor at the time. He was just submitting in a
21 follow-up --

22 MS. COTE: Okay.

23 THE WITNESS: -- to HR.

24 MS. COTE: So we can identify this as a cashier as opposed
25 to traffic agent?

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1 THE WITNESS: Yes.

2 MS. COTE: No objection.

3 HEARING OFFICER SAVELAND: Okay, it's admitted

4 **(Employer Exhibit Number 10 Received into Evidence)**

5 HEARING OFFICER SAVELAND: I got a quick question

6 THE WITNESS: Okay.

7 HEARING OFFICER SAVELAND: Is there any sort of guideline
8 on how much discipline you would receive for a no call/no show
9 or did the supervisor just decide three days sounded
10 appropriate?

11 THE WITNESS: I believe three days is standard for no
12 call/no shows. I believe that's actually in our attendance
13 policy that we have agreed with. It's an addendum to the
14 collective bargaining agreement.

15 HEARING OFFICER SAVELAND: So for the employees that are
16 part of the collective bargaining agreement, you have some sort
17 of schedule about attendance infractions?

18 THE WITNESS: Yeah and lists the amount of attendance
19 points.

20 HEARING OFFICER SAVELAND: And basically what you can
21 look --

22 THE WITNESS: And what they can expect.

23 HEARING OFFICER SAVELAND: Right. That's what I was going
24 to ask. So this point system I guess, is that set out in the
25 contract? On page 2 of the exhibit, there seems to be like

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1 plus 3, minus 3.

2 THE WITNESS: Yep, that would be -- this is one of the
3 attendance records that the supervisors keep. So if there's
4 latenesses and there's actually on that schedule if you're
5 between, you know, 0 and 10 minutes or 10 and 20 and so forth,
6 how many points that they'll describe and then same thing for
7 absences. If it's an excused absence like a doctor versus an
8 unexcused absence like they simply say my car's broken, I'm not
9 coming in. And then no call/no shows and then there's also
10 marks for -- you can see it's been a year since the time where
11 she was absent there. So she's getting that added back to her
12 total running points.

13 HEARING OFFICER SAVELAND: Okay. And do you know when
14 they issue these violations, are these lane supervisors
15 normally out in the field or are they normally in an office?

16 THE WITNESS: They're normally in the locations for the
17 east garage and west garage. There is kind of a satellite
18 office which is, you know, you've got the lane of the booths
19 and then right at the end there's the supervisor's office so
20 that they can see all the lanes.

21 HEARING OFFICER SAVELAND: Uh-huh.

22 THE WITNESS: And so that's usually, you know, where they
23 are when they get the -- where they keep the records and when
24 they're issuing their write-ups.

25 HEARING OFFICER SAVELAND Do they have access in that

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1 area to the collective bargaining agreement or at least the --

2 THE WITNESS: Yep, there are copies out there.

3 HEARING OFFICER SAVELAND: Okay. So they can look to see
4 okay, this person's at 70 points, I should give them such and
5 such amount if that's the case.

6 THE WITNESS: And we keep extras on hand in all of the
7 manager offices and the training offices should theirs ever go
8 missing so that they can request one --

9 HEARING OFFICER SAVELAND: Okay.

10 THE WITNESS -- to verify.

11 HEARING OFFICER SAVELAND: All right. Thank you.

12 THE WITNESS: May I take a moment to give directions to
13 our additional witness whose trying to find us here?

14 HEARING OFFICER SAVELAND Sure. Well, yeah, we can take
15 a break and go off the record.

16 (Off the record at 10:59 a.m.)

17 HEARING OFFICER SAVELAND: Okay, back on the record.

18 MR. HARVEY: I'm handing Mr. Jorgenson a document that I
19 am calling Employer's Exhibit 11.

20 (Employer Exhibit Number 11 Received into Evidence)

21 Q BY MR. HARVEY: Mr. Jorgenson, I'd like you to take a
22 look at that document, please.

23 MS. COTE: I'm sorry, is this it? Lem --

24 HEARING OFFICER SAVELAND: Yes.

25 DIRECT EXAMINATION

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1 Q BY MR. HARVEY: Did you have a chance to look at that?

2 A Yes.

3 Q What is it?

4 A This is a write up for a cashier. It's a disciplinary
5 warning for listening to her headphones while she was at work.

6 Q And who was she, this?

7 A This was to Jenny, one of the lane supervisors.

8 Q All right. And looking at the substance of this, what
9 happened? Or do you know what happened? Is that -- if you
10 can, on this document?

11 A I do not recall this specific incident, no.

12 Q Okay. But looking at it, was this discipline issued in
13 accordance with the formula? Can you tell?

14 A It looks like it may have been escalated a step due to the
15 insubordination of refusing to take out the headphones, when
16 she was originally directed to do so.

17 Q And that was the -- a supervisor who exercised that
18 discretion?

19 A Yes.

20 Q Did the -- do the supervisors need permission from
21 somebody, in that context, to elevate?

22 A No.

23 MR. HARVEY: We'll offer that into evidence. And I have
24 more exhibits, but I think for the -- I think the point has
25 been made. So, for -- I will rest on my direct at this point.

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1 HEARING OFFICER SAVELAND: Okay. Do you have any

2 objections to Employer's 11?

3 MS. COTE: No, ma'am.

4 HEARING OFFICER SAVELAND: Okay, then, it's admitted into
5 evidence.

6 (Employer Exhibit Number 11 Received into Evidence)

7 HEARING OFFICER SAVELAND: And right now, just for the
8 record, Mr. Jorgenson is going to step down, but -- so that we
9 can accommodate a witness that needs to be out by noon, and Ms.
10 Cote will have a chance to question him after we're finished
11 with the next witness.

12 MS. COTE: I'm sorry, is direct completed of this witness,
13 then?

14 HEARING OFFICER SAVELAND: That's what he just said, yes.

15 MS. COTE: Oh, I'm sorry. Thank you.

16 HEARING OFFICER SAVELAND: Okay, you can call your next
17 witness.

18 MR. HARVEY: All right. Mohamoud.

19 HEARING OFFICER SAVELAND: Okay, please raise your right
20 hand, and repeat after me.

21 Whereupon,

22 MOHAMOUD ABDULAAHI

23 having been duly sworn, was called as a witness herein and was
24 examined and testified as follows:

25 HEARING OFFICER SAVELAND: Okay. Can you please state

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1 your name and spell it for the record?
 2 THE WITNESS. Sure. My name's Mohamoud Abdulaahi. I can
 3 spell it for you. It's M-O-H-A-M-O-U-D. Last name's
 4 Abdulaahi. A-B-D-U-L-A-A-H-I.
 5 MS. COTE: A-A what?
 6 THE COURT REPORTER: Could we get the spelling again?
 7 THE WITNESS. A-A-H-I.
 8 MS. COTE: And the first name again?
 9 THE WITNESS: M-O-H-A-M-O-U-D. If you want to make
 10 corrections, it says it on here.
 11 THE COURT REPORTER: Could I get the spelling of the last
 12 name again, please?
 13 HEARING OFFICER SAVELAND: Do you have another card?
 14 THE WITNESS: Yeah.
 15 THE COURT REPORTER: It's a little quick, for me.
 16 HEARING OFFICER SAVELAND: Here we go.
 17 THE COURT REPORTER: Thank you.
 18 HEARING OFFICER SAVELAND: Okay, your witness.
 19 **DIRECT EXAMINATION**
 20 Q BY MR. HARVEY: Mr. Abdulaahi, are you employed by
 21 Standard Parking Corporation?
 22 A Yes.
 23 Q In what capacity?
 24 A Manager on duty.
 25 Q Manager on duty. And as a manager on duty, what are your

1 job requirements?
 2 A Basically, oversee the supervisors. Daily -- day to day
 3 operations. That like everything goes, you know, the way it's
 4 supposed to be.
 5 Q And about how many supervisors do you oversee in a given
 6 shift?
 7 A In my shift, I see -- I oversee eight to six supervisors.
 8 Q And in terms of overseeing the supervisors, what does that
 9 involve?
 10 A That involves from -- that's involve basically from the
 11 lanes, traffic, and audit. And for all supervisors.
 12 Q Okay. So you oversee the lane supervisors, subtracks --
 13 A Yes.
 14 Q -- the traffic supervisors?
 15 A Yes.
 16 Q Audit supervisors?
 17 A Uh-huh. Clerks.
 18 Q Clerks?
 19 A And traffic.
 20 Q Okay. And in terms of your oversight of these
 21 supervisors, do they need to come to you on a day to day basis
 22 for direction?
 23 A No. Unless they need my help. They don't have to.
 24 Q Okay. So what might a supervisor contact you for?
 25 A They will contact me -- a traffic supervisor will call me

1 if all the lots getting full, and then tell them to open the
 2 overflow lot. He will call me if someone has an accident. One
 3 of the trucks that we use over there. Clerk supervisor will
 4 call me if he sends someone home. So he will just inform me
 5 and let me know what happened. Lane supervisors will call me,
 6 such as, if they get busy, in the exit lanes. They have like,
 7 too many cars exiting at the same time, and they get problem
 8 with the equipment that we're using to assist customers.
 9 That's actual -- the basic of -- that's all they call me.
 10 Q So on a day-to-day basis, does a supervisor need to call
 11 you, for example, to issue a promissory note?
 12 A Yes. They will call me promissory note. If that's over
 13 the limit. You know, SLBs, you know, SLBs is a contract we get
 14 from the city, stating if -- for a time, we have to know like
 15 -- let's say, like, on a promissory note that over the limit,
 16 like a hundred dollars over sometimes, from fifty or -- they
 17 will just call me and they say, you know, I have this
 18 promissory -- they will call me on the radio, and I will tell
 19 them affirmative. So I can just put it in my report.
 20 Q Okay. So do they have to do that every time they issue a
 21 promissory note?
 22 A No.
 23 Q And about how many promissory notes do they issue a day?
 24 The supervisors? Do you know?
 25 A They issue -- it's depend, you know, like the holidays.

1 Like Thanksgiving or spring breaks, and all that. We have a
 2 lot of promissory notes. People that do not have money. But
 3 other times -- but a day may be five, or -- I would not know,
 4 because they don't report me. They would report me only when
 5 they have promissory notes like \$400 and \$600 plus.
 6 Q Okay.
 7 A You know, the city's very, very -- I mean -- serious about
 8 these. They don't want to lose money, so they don't want us --
 9 I mean, they want to know. I mean, they want us to comment
 10 this promise.
 11 Q So would it be fair to say that you typically don't know
 12 when a promissory note has been issued?
 13 A No.
 14 Q No, you don't know? I mean --
 15 A I mean, the promise?
 16 Q Yeah.
 17 A I know they do the promise, but I would comment only when
 18 they have over limit promise.
 19 Q Correct. Okay.
 20 A Other ones, I don't know.
 21 Q Now, in terms of discipline, do the supervisors that you
 22 oversee need to get your permission to discipline the employees
 23 that the supervisors oversee?
 24 A No.
 25 Q So they have the freedom to do that on their own?

1 A Yes.

2 Q Do you need to approve whatever discipline they impose?

3 A No.

4 Q And in terms of directing the employees, so the
5 supervisors that you oversee, do they schedule employees?

6 A They do schedule this. They do incentive program, they do
7 attendance. They as far as the schedules they do adjustments,
8 if it turned out, you know, someone called out, they can
9 replace it So they don't need my approval. They can --

10 Q They do not need your approval for any of that stuff?

11 A No.

12 Q And then in terms of directing the non-supervisory
13 employees on a day-to-day basis, do the supervisors need to ask
14 you how to direct the employees?

15 A You know, they have their own offices and they deal their
16 own cashiers

17 Q Uh-huh.

18 A And traffic agents. But they will call me -- but let's
19 say, if we're really short of staff, if like too many cashiers,
20 or -- let's say traffic agents call out in the shift, yes, they
21 will call me and say, you know, we have too many callouts. And
22 you know, this is what they're doing. They will give me -- you
23 know, send me so I can judge, you know.

24 Q Okay.

25 A They'll give me what's going on, but yes, that's their own

1 position, to call and replace their employees.

2 Q So it sounds to me like they operate -- the supervisors
3 operate pretty independently, then

4 MS. COTE: I haven't objected to any of all these leading
5 questions yet, but I think we're reached the limit, here. I
6 object to the leading nature of these questions. He's not
7 asking for descriptions, he's supplying all the answers in his
8 questions. I object.

9 HEARING OFFICER SAVELAND: I agree. Let's just try and
10 ask some more open-ended questions.

11 MR. HARVEY: Okay. I have nothing further of this
12 witness.

13 HEARING OFFICER SAVELAND: Okay. Ms. Cote?

14 CROSS-EXAMINATION

15 Q BY MS. COTE: Good morning, Mr. Abdulaahi.

16 A Good morning.

17 Q I'm Linda Cote.

18 A Okay?

19 Q And I am the attorney for the Teamsters Local 455.

20 A Okay.

21 Q Representing the request for an election today.

22 A Okay.

23 Q How long have you been out there in your capacity as a
24 manager for Standard Parking?

25 A Since October 15, 2008.

1 Q Okay.

2 A But I've been at that position longer than that, because
3 Standard take over the contract in 2008, but I've been in that
4 position since 2006.

5 Q Okay

6 A With a different company. And also, I used to be a lane
7 supervisor, before that.

8 Q Thank you. And if I understand your testimony correctly,
9 and please, tell me I got my notes wrong --

10 A Okay.

11 Q -- if I have, that you oversee lane supervisors, traffic
12 supervisors, audit supervisors, vault and clerks, right?

13 A No. That's the same place. Clerks, the vault is same.

14 Q Okay.

15 A All go under clerks.

16 Q They under audit?

17 A They go under audit. And all the clerks, they go under
18 one supervisor.

19 Q Okay.

20 A Yeah.

21 Q Now, it's true, is it not, in terms of these promissory
22 notes that the SOP, the standard operating procedure, says that
23 the limit is \$50?

24 A According to SOPs, yes, they say \$50.

25 Q So the limit is not \$300, or \$600. It's \$50, isn't that

1 true?

2 A Fifty dollars. Okay, this is the difference. If super --

3 Q Just answer my question, sir. It's \$50, isn't that true,
4 under the standard operating procedure?

5 A According to SOPs, yes, it's \$50.

6 Q Okay. So when a promissory note needs to be more than
7 \$50 --

8 A Uh-huh?

9 Q The supervisors are supposed to call a manager, isn't that
10 also true?

11 A Yes, that's -- yeah, they call us.

12 Q And when it is under \$50, the supervisors have to gather
13 certain information from the driver before a promissory note is
14 issued, right?

15 A Yes, driver license, uh-huh.

16 Q They have to look for a license.

17 A They have to check driver license.

18 Q The driver's license, okay. Do they also check the
19 registration of the car?

20 A No.

21 Q No registration of the car is checked?

22 A Unless the customer do not have ID, or driver license.

23 Q Okay.

24 A Then they'll ask, also.

25 Q So it's a driver's license.

1 A Check, yes.

2 Q Do they also note the license of the car?

3 A Yeah, on the promissory note? Yes.

4 Q Okay.

5 A Uh-huh.

6 Q And all this information then is recorded on a form,

7 correct?

8 A It does, yes, correct.

9 Q And if it is under \$50, after that information is gathered

10 by the supervisor, then the driver is allowed to leave, after

11 signing the promissory note, correct?

12 A That is correct That's actually --

13 Q So when it's over \$50, you or another manager are supposed

14 to be called, correct?

15 A Yes.

16 Q Okay And before the manager is called, does the

17 supervisor take down the same information, the driver's license

18 and the license plate of the car and that type of thing?

19 A Yes.

20 Q He's filling out the form for the manager to review and

21 approve, correct?

22 A No. That's not right.

23 Q Oh, it's not right? You don't review the --

24 A No.

25 Q -- promissory note?

1 A No, we don't, I don't.

2 Q You don't check it?

3 A I don't check it.

4 Q You just sign it without a --

5 A I don't sign promissory notes.

6 Q Who does?

7 A Supervisors.

8 Q Oh, so you don't sign a promissory note.

9 A No.

10 Q But when it's over \$50, you are called by the supervisors.

11 You have to be, right?

12 A Just to document it. I don't even send out or do --

13 Q I'm sorry, say that again?

14 A I do not sign the promise, even --

15 Q You don't sign it?

16 A -- if it's \$600, or \$700, or \$800.

17 Q Uh-huh?

18 A I just put it on my report, my daily report. Document it.

19 Q Okay. And what would happen to a supervisor if they

20 issued a promissory note without calling a manager that was

21 over \$50? They'd be subject to discipline, wouldn't they?

22 A If the issue -- I can't say that yes or no. But --

23 Q You can't say it yes or no?

24 A Because usually, that's the procedure they're supposed to

25 follow. We don't give them discipline, but we give them what

1 we call OIM, you know, like -- just remind them that they have

2 to do it.

3 Q So, if you have a supervisor who issues a promissory note

4 for \$600 without having called any manager, he would get an

5 opportunity to improve.

6 A Yes.

7 Q Okay.

8 A Without have it before, I don't remember.

9 Q So, when you are called over for a promissory note over

10 \$50, you are there to tell the supervisor whether or not a

11 promissory note can be issued, aren't you?

12 A You know, hundred percent, we tell them, that is

13 affirmative. They call me on the radio, I'll say I copy.

14 That's all.

15 Q But they have to call you, whether you actually show up in

16 person, they have to get your okay before they issue something

17 over \$50, isn't that true, sir?

18 A Yeah, we don't show up, but we tell them yes, affirmative.

19 We copy that. That's what we do.

20 Q So they have to get your okay.

21 A Yeah.

22 Q Now, you also mentioned, sir, that the supervisors

23 schedule employees.

24 A Uh-huh.

25 Q Now, it is true, is it not, that there is a master

1 schedule prepared by managers that is given to the supervisors

2 about who is scheduled to work where?

3 A The master schedule, it come from -- originally, the

4 schedule come from manager.

5 Q Okay.

6 A But the daily, I mean, like daily schedules is in charge

7 by supervisors.

8 Q Okay, so let's be clear. There is a master schedule that

9 comes from management that's given to the supervisors, right?

10 A Yes.

11 Q Now, on a daily basis, though, there sometimes needs to

12 have some changes made in the master schedule, correct?

13 A Yes.

14 Q And for example --

15 A I'm sorry. Master schedule doesn't change. Only the day-

16 to-day schedule is changes. If someone call out --

17 Q All right, that's --

18 A -- someone -- yeah, you know.

19 Q All right, that's just what I was going to suggest. There

20 -- is it fair to say that it -- a good example of this is when

21 someone calls in sick.

22 A Uh-huh.

23 Q Right? They're scheduled to work on the master schedule,

24 correct?

25 A Uh-huh.

1 Q Is that a yes?
 2 A I'm sorry.
 3 Q It's hard for her to get uh-huh and unh-unh.
 4 A Okay, repeat.
 5 Q So I'm just asking you to say --
 6 A Can you repeat your question?
 7 Q All right, so, you have a master schedule prepared by
 8 management --
 9 A Yes.
 10 Q -- correct?
 11 A Uh-huh.
 12 Q That's showing who's working where, correct?
 13 A Yes, right.
 14 Q Okay. Now, let's assume that Mr. X calls in sick. All
 15 right?
 16 A Uh-huh.
 17 Q So that creates a hole in the schedule, correct?
 18 A Yes, correct.
 19 Q So, on this particular day, right?
 20 A Uh-huh. Yes.
 21 Q And that's the daily schedule you're talking about --
 22 A Yes.
 23 Q -- correct, sir?
 24 A Uh-huh.
 25 Q All right, so this daily schedule ends up with someone

1 who's absent, and so now a decision needs to be made whether or
 2 not that absent employee -- whether you need someone to fill
 3 in, isn't that true?
 4 A That's true.
 5 Q And isn't it also true that that supervisor calls the
 6 manager to ask whether or not this particular person's job
 7 needs to be filled that day?
 8 A Okay, supervisors have the authority to replace that
 9 cashier. They will call someone else, they will replace it.
 10 Q All right.
 11 A Yes.
 12 Q But they do call the managers about replacing a particular
 13 person who's out sick, isn't that true?
 14 A Yes. They will call me and let me that we have three
 15 callouts and then this one will replace it. I mean, like will
 16 replace the three call outs.
 17 Q Okay.
 18 A Yeah.
 19 Q And they also called to ask whether or not they're
 20 supposed to replace or replace how many, isn't that true?
 21 A No.
 22 Q No? They don't need to get an okay from a manager whether
 23 or not to replace one or six employees who are out?
 24 A No. They would replace it. They have the authority to
 25 replace people.

1 Q Okay.
 2 A Employees. The only thing is they will just call me so I
 3 can run my documentation.
 4 Q So you can work your --
 5 A I can run my daily report.
 6 Q Uh-huh.
 7 A So I can you know --
 8 Q So they're just giving you notice --
 9 A No, it's a --
 10 Q -- they're not asking permission.
 11 A Yeah, but -- no --
 12 Q Is that what you're saying?
 13 A Yeah, yeah. They're not asking permission. I mean, they
 14 have their own authority to replace it. But I will just have
 15 to run my daily report that that's what happened.
 16 Q All right. Now, in terms of replacing individuals, a
 17 supervisor then is bound by the collective bargaining agreement
 18 about who is the replacement, isn't that true?
 19 A You know, if they call employees, they have the union
 20 agreement, and they go by the seniority.
 21 Q All right, right.
 22 A Yeah.
 23 Q So they go either -- depending upon the vacancy, isn't it
 24 true that they can either ask for volunteers sometimes, or
 25 other times, they have to go by seniority and point, correct?

1 A You always go by the seniority.
 2 Q So there's never occasions where volunteers can fill in
 3 for other people?
 4 A We go by seniority and if the senior people don't want to
 5 stay, then what they do, they call --
 6 Q The junior people.
 7 A -- junior people. Right
 8 Q They're forced.
 9 A Yeah, but that's the supervisor assignments, so --
 10 Q Right.
 11 A -- I usually don't deal with that --
 12 Q Okay.
 13 A Most of the time.
 14 Q All right. Okay. Now, and you also mentioned that the
 15 supervisors do attendance. Do you remember testifying to that,
 16 sir?
 17 A Yes.
 18 Q Now, by doing attendance, is it fair to say that you're
 19 talking about a supervisor keeping track about whether or not
 20 someone calls in and is absent from work? Correct?
 21 A Yes.
 22 Q Or if they're sick and call in, correct?
 23 A Yes.
 24 Q Or if they're on leave, correct? Is that a yes?
 25 A Yes, because they -- yeah, they are the one keeping track

1 of all that.

2 Q All right. And so they keep track of -- let's take, for

3 an example, whether or not a person is tardy.

4 A Uh-huh.

5 Q That's another part of the attendance points system, isn't

6 it, sir?

7 A Yes, that's correct.

8 Q All right. And so, in order to track tardiness, the

9 supervisor looks to the time card punch, doesn't he?

10 A Yes.

11 Q So he looks to a card whether or not -- or when a

12 particular individual punches in and punches out, correct?

13 A Yeah, that's correct.

14 Q And it is also the supervisor's job to check to see time

15 when people go out, punch out and punch back in for breaks,

16 also true?

17 A Yeah, that's the -- that's their responsibilities.

18 Q So he's doing those mathematical calculations based on the

19 time cards, right?

20 A Uh-huh. Yes. That's correct.

21 Q And in terms of attendance, who do people call when

22 they're going to be sick? Do they have to make a phone call?

23 A Yes, they call supervisors.

24 Q They call their supervisors?

25 A Yes, they call supervisors.

1 Q Okay. And now, are there tape recordings kept of all the

2 calls that come in?

3 A Surely -- you know, the phones we have, it might be there,

4 recordings to the city. A kind of different phone is -- but

5 I'm not sure.

6 Q You're not sure?

7 A Yeah, but I think that they should be recording. Yeah.

8 But we're recorded, I mean, every time they call supervisors,

9 it would fill in the phone that they call at, and then that's

10 how we know.

11 Q So, when a call comes in from an employee who's going to

12 be out sick, they call their supervisor, and the supervisor

13 keeps track of that, correct?

14 A That's correct.

15 Q Okay. Now, I'd like to have you refer to -- whoops, I

16 didn't write it down. Company Exhibit 10. You should have

17 Number 10 there somewhere. The witness doesn't have a --

18 sorry.

19 A Okay.

20 Q All right, now, the second page of Company Exhibit 10 is

21 an attendance tracking form.

22 A Yeah.

23 Q That's what it's titled up there, correct?

24 A Yes, uh-huh.

25 Q Now, this is what the supervisors, where they keep track

1 of points, et cetera, right?

2 A That's correct.

3 Q So, the supervisors are checking the time cards and other

4 documents in order to put this particular report together,

5 right?

6 A Yep, that's right.

7 Q And this is part of what they do in clerically tracking

8 each individual, right?

9 A That's right.

10 Q Now, the points system again, these are set out in company

11 policies, or in the collective bargaining agreement, aren't

12 they?

13 A Yes, correct.

14 Q So it's not that the supervisor decides how many points

15 they get, right? That's described by company policy and

16 described by the collective bargaining agreement, right?

17 A That's right, that's correct.

18 Q So it's not that the supervisor judges, oh, I'm going to

19 give this guy ten points today, and this gal five points

20 tomorrow, right?

21 A No, we have attendance policy. Currently we have an

22 attendance policy. They go by that one.

23 Q Now, you talked about the satellite office for the traffic

24 supervisors. This is where they spend most of their time,

25 isn't that true? The traffic and lane supervisors, sir?

1 A Not the traffic. Lane supervisors.

2 Q Lane supervisors, okay

3 A Yes.

4 Q So lane supervisors are in their office most of the time,

5 isn't that true?

6 A That's true.

7 Q Now, the lane supervisors are the ones who oversee the

8 cashiers, right?

9 A That's right.

10 Q And these are the people who take money from the drivers

11 when they finally have --

12 A Customers.

13 Q -- landed back in Denver, and are going home.

14 A Customers, yes. That's correct.

15 Q Customers. Okay. And so the lane supervisors then are in

16 their satellite office. They have access to computers, do they

17 not?

18 A They do have access to computers.

19 Q And to the personnel records of the people that they

20 oversee, et cetera, right?

21 A That's correct.

22 Q And they keep all the paperwork relative to that, correct?

23 A That's correct.

24 Q Okay. Now, about shift trades. These are something that

25 employees try to work out together, is that right?

1 A Yes.

2 Q And they are supposed to go to a supervisor --

3 A Yeah.

4 Q -- about that, correct?

5 A Uh-huh, that's correct.

6 Q And it does go up to a manager then for final approval,

7 isn't that also true?

8 A Actually, yes, just to review. If supervisors say that

9 mutual -- I mean, that trade is fine That first one that was

10 checking if everything's okay. That would work, okay, sign,

11 and then they will give it to us, and then I will file it. The

12 mutual.

13 Q Okay. So you're saying you don't need to approve when

14 people switch.

15 A Actually, we approve the mutual --

16 Q I'm sorry, sir?

17 A Yes, we do approve the mutuals.

18 Q You do have to approve the mutuals?

19 A But actually, as we review, they approve the mutuals. The

20 approval come from the supervisor and we review it.

21 Q Okay. But you have the one -- you're the ones -- you

22 managers are the ones who have the final say-so of whether or

23 not the mutuals take place, isn't that right?

24 A Actually, that's -- is that -- mutuals, not you know,

25 eligible for the employees. It will not come to us, they will

1 start it right away, if -- if all like.

2 Q So if the supervisors think it's okay for it to be done,

3 it goes on to you, but they can say no?

4 A Yeah.

5 Q Okay. So they don't pass on all the mutuals that are

6 requested? Is that your testimony?

7 A That's correct, because we have procedures about these

8 mutuals.

9 Q You have procedures that the employees are supposed

10 follow, right?

11 A That's correct

12 Q Is it a form they're supposed to fill out?

13 A Yes.

14 Q And they're supposed to give it to the supervisor, right?

15 A Correct.

16 Q And then the supervisor passes it on to the manager,

17 right?

18 A They sign the mutual, they sign that form.

19 Q They sign, and pass it on.

20 A That's -- yes, that's correct.

21 Q Okay. And do you ever give notice then, back to the

22 supervisors, whether the mutual can take place or not?

23 A Actually, it depends. In certain cases.

24 Q In certain cases you do, in certain cases you don't?

25 A No, most of time, not. Hundred percent, if a supervisor

1 signed a mutual, we approve it. It will never get questioned.

2 Q Okay. Now, I'd like to also refer you to Company Exhibit

3 9.

4 THE COURT REPORTER: Can I have that when you're done? Or

5 did you give it back?

6 HEARING OFFICER SVELAND: No, he still has it.

7 THE WITNESS I still have it. I will give it back.

8 Q BY MS. COTE. And the second page, sir. And perhaps

9 you're not familiar, you know, feel free to say whether or not

10 you know. Do you recognize the signature that appears there in

11 the middle of that second page, after the word finance? Do you

12 know whose signature that is, by any chance?

13 A Yes.

14 Q Who is that?

15 A He's a supervisor. Collect supervisor. Yeah, this Betty

16 Dan, she's a collect supervisor.

17 Q What did you say his name was?

18 A Her name's Betty Dan. B-E-T-T-Y. Last name's Dan, D-A-N.

19 I think that's what it's got there, that's her.

20 Q Okay. At the time this was signed, do you know who the

21 finance manager was?

22 A Let me go back. Give me a second.

23 Q And feel free to say you don't know if you don't. I'm not

24 trying to --

25 A Yeah.

1 Q -- pin you into anything you don't know.

2 A I understand. Hang on a second. Finance manager, at the

3 time I'm not sure, but I think that was Robin. Her name is --

4 at the time.

5 Q So where this supervisor signed is really where the

6 finance manager usually signs, isn't that true?

7 A I'm sorry. This is -- I reviewed this, and that's my

8 signature.

9 Q What page are you on, sir?

10 A Are you looking at the second page?

11 Q I was looking at the second page.

12 A Oh, okay. Second page, yeah, okay. I'm sorry. Second

13 page.

14 Q After the word finance, right there in the middle?

15 A That's Binyam Daba.

16 Q That's not Betty Dan, then.

17 A It's not, yeah, I'm sorry.

18 Q It's Benny?

19 A Binyam Daba.

20 Q Benjamin?

21 A No, Binyam. B-I-N-Y-A-M. Daba, D-A-B-A. He was --

22 D-A-B-A?

23 A Yeah.

24 Q Okay.

25 A He was a finance supervisor.

1 Q And is that a mister?
 2 A Yeah, he's a mister, yes.
 3 Q And is that -- is he a supervisor?
 4 A Yes, finance supervisor.
 5 Q Okay. So we still have a supervisor, and it's fair to say
 6 you still don't recall who the finance manager was at this
 7 time, is that right?
 8 A No, I have to go back.
 9 Q You don't remember, correct?
 10 A Uh-huh. I was thinking Robin, but I'm not sure, so I
 11 don't want to put it here.
 12 Q Fine.
 13 A Just do not know that one.
 14 MS. COTE: If I could have a moment, please?
 15 HEARING OFFICER SVELAND: Sure.
 16 MS. COTE: Nothing further. Thank you very much, sir.
 17 THE WITNESS: Thank you.
 18 HEARING OFFICER SVELAND: I have a couple quick
 19 questions.
 20 THE WITNESS: Sure.
 21 HEARING OFFICER SVELAND: Do you know how many managers
 22 on duty there are?
 23 THE WITNESS: Yes. At this point, we are -- one, two,
 24 three, four -- we are five at this point.
 25 HEARING OFFICER SVELAND: And how many work each day, or

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1 each shift?
 2 THE WITNESS: Two.
 3 HEARING OFFICER SVELAND: Two per shift?
 4 THE WITNESS: And the one secretary.
 5 HEARING OFFICER SVELAND: As far as the master schedule
 6 goes, who makes the master schedule?
 7 THE WITNESS: The master schedule, manager makes.
 8 HEARING OFFICER SVELAND: Managers on duty?
 9 THE WITNESS: Yes.
 10 HEARING OFFICER SVELAND: Make those. And are the number
 11 of employees that you have scheduled per shift, is that set by
 12 the contract with the city, or --
 13 THE WITNESS: With the city.
 14 HEARING OFFICER SVELAND: So the city says you have to
 15 have this many people, and that you --
 16 THE WITNESS: Yes, yeah, you have to have three this
 17 shift, you have four the other shift, and all that.
 18 HEARING OFFICER SVELAND: And do they specify for
 19 holidays how many you have to have or the --
 20 THE WITNESS: Yes.
 21 HEARING OFFICER SVELAND: -- the heavier volume times?
 22 THE WITNESS: Yes. Yeah.
 23 HEARING OFFICER SVELAND: Okay. Do you do the
 24 evaluations for the incentive program for all the supervisory
 25 classifications?

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1 THE WITNESS: Yes, I do have that service.
 2 HEARING OFFICER SVELAND: Okay. And do you -- is there
 3 also an incentive program for the cashiers, and the lane
 4 attendants, and the other ones?
 5 THE WITNESS: That's correct.
 6 HEARING OFFICER SVELAND: Do you do any evaluations for
 7 the cashiers and lane attendants, or is that just done by --
 8 THE WITNESS: No, that's the supervisors.
 9 HEARING OFFICER SVELAND: That's the supervisors.
 10 THE WITNESS: Yeah.
 11 HEARING OFFICER SVELAND: Okay, that's it.
 12 THE WITNESS: Thank you.
 13 HEARING OFFICER SVELAND: Did you have any more
 14 questions?
 15 MR. HARVEY: No, thank you.
 16 HEARING OFFICER SVELAND: Okay. I think we're -- Ms.
 17 Cote, did you have any cross?
 18 MS. COTE: No.
 19 HEARING OFFICER SVELAND: Thank you. Okay, now can we
 20 recall Mr. Jorgenson to the stand? And Mr. Jorgenson, I'll
 21 just remind you, you're still under oath. Go ahead and have a
 22 seat. Ms. Cote, your witness.
 23 MS. COTE: Thank you.
 24 **THOMAS JORGENSEN**
 25 having been previously sworn, was called as a witness herein

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1 and was examined and testified as follows:
 2 **CROSS-EXAMINATION**
 3 Q BY MS. COTE: Good morning, Mr. Jorgenson.
 4 A Good morning.
 5 Q I'm Linda Cote, we haven't officially met. But let me ask
 6 you now some questions in regards to your testimony, sir. How
 7 long have you been an assistant general manager?
 8 A Just shy of three years, I think.
 9 Q Okay. And all that time is with Standard Parking?
 10 A Yes.
 11 Q Were you ever an LPI supervisor, lane or traffic or
 12 finance or audit supervisor?
 13 A No.
 14 Q Now, there are operations managers under you, from what I
 15 understand, correct?
 16 A Yes.
 17 Q And the operations managers, who you manage, are who?
 18 A I --
 19 Q By job function, not name.
 20 A All of them. There's only five of them, total, and they
 21 kind of rotate around, so at any given time, I'll be dealing
 22 with any one of them.
 23 Q Now, how many assistant general managers are there?
 24 A Two.
 25 Q Aren't there usually three?

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1 A No.

2 Q There's just two of you?

3 A Just two.

4 Q And do you have more specific titles of assistant general
5 manager? For blank, for one or the other?

6 A No. No. It's just you know, a matter of covering shifts,
7 so we have two of them to cover the two busier shifts.

8 Q Okay. Now we talked about the master schedule with the
9 testimony of the prior witness. Is that something that you put
10 together?

11 A It's something that we actually put together with a
12 process of bids from the union employees. Based on the needs
13 of the location at a time, we'll create a blank schedule, which
14 we then have to get approved by the city. Once the city
15 approves it, and sets the budget, then we put that up for bid,
16 and the union employees will, based on seniority, pick which
17 shifts they want, and that's what becomes, then, the master
18 schedule.

19 Q Okay, so you make a proposal to the city that we need, on
20 these shifts, these positions, and this many people on these
21 positions? And it must be approved by the city of Denver?

22 A It's usually backwards from that. They say, we want you
23 to spend this much money, or use this many hours, and then we
24 allocate that as best we can, to where we need people.

25 Q So, when you say that you allocate that as best you can,

1 the allocation -- do I understand correctly that the city
2 doesn't tell you to have this many finance clerks, but it tells
3 you, spend this amount of money? And you decide, well, I'm
4 going to want to have four finance clerks, or however many you
5 decide, based on the budget?

6 A Yeah, basically. If we have -- we have X number of total
7 hours, and they usually give us our budget by hours, rather
8 than dollars.

9 Q Okay.

10 A So we have this amount, and then we'll look at the
11 workload we have by shift, and say, okay, well, we've got most
12 on this shift, so we'll put five here. And then we've got
13 almost as much, so we'll put four here, and then not as much,
14 so we'll put three here.

15 Q Okay, and that's something --

16 A How we work that out.

17 Q -- you general managers, assistant general managers do?

18 A That's something that we actually do with the general
19 manager, and with input from all of the operations managers.

20 Q Okay. Now, I'd like to go back to the first exhibit that
21 we -- that was introduced under your testimony, sir. This is
22 the one -- I wanted to get a point clarified. I understand, as
23 to Company Number 1 --

24 A Uh-huh.

25 Q -- that you testified that -- and correct me if I'm wrong,

1 that the major responsibilities, the major bullet points out at
2 the far left, are for the most part, applicable to all
3 supervisors, correct?

4 A No. The main bullet points out to the left are the ones
5 that were the original descriptions on the lane supervisor job
6 description.

7 Q And the inset bullet points were things added in
8 preparation for this hearing, correct?

9 A Correct. Those were a further definition of what, for
10 example, supervisor -- supervision and coordination of
11 scheduling might mean.

12 Q And who did -- who drafted those inset bullet points?

13 A I did. I -- we had some input from our general manager,
14 as well as our HR manager, but I actually put together the
15 document, there.

16 Q I'd like to call your attention, sir, to the second page
17 of Company Number 1.

18 A Okay.

19 Q It's the next-to-the-last bullet point.

20 A Uh-huh.

21 Q "Responsible for verification of specific transactions
22 requiring additional authority and access."

23 A Uh-huh.

24 Q Now, I get responsible for verification of specific
25 transactions. Am I correct in understanding that that is the

1 supervisors going into documentary evidence, and verifying
2 whether or not a specific transaction was computed correctly,
3 or performed correctly?

4 A That would actually be more to -- say, a customer is
5 complaining to a cashier that, that's not when I came in. They
6 lost their ticket, so the cashier processed a lost ticket, the
7 customer's saying no, that's not when I came in. Then it goes
8 to the supervisor, to try to do some research and make a
9 judgment of whether the customer is telling the truth, or if
10 there was some error in the processing, and there is in fact a
11 different time that they came in, in which case the supervisor
12 would fill out what we call a disputed transaction, where they
13 alter the fee amount, based on what they find

14 Q Now, it's true in terms of what the supervisor is looking
15 to, is he's looking through the computer records of when that
16 particular vehicle came in.

17 A They're looking through some computer records. They're
18 also talking to other employees. It could be an instance --
19 for example, if a gate arm is broken at an entrance, and so
20 people are able to come in without a ticket, we would not have
21 physical documentation of them at all. So they have to you
22 know, call, see if any of the traffic agents know about a
23 broken gate, see if dispatch knows about it, and then determine
24 whether you know, they think that the customer came in during
25 that time, or if they think that they heard it from the

1 customer in line ahead of them, and are just trying to get out
 2 on the same dime.
 3 Q Okay. So by consulting with other employees of whether or
 4 not a gate is broken, the supervisor is determining whether or
 5 not this individual snuck in?
 6 A They're determining, based on whatever they have available
 7 to them. I mean, there's no one circumstance where they're --
 8 be needed for this type of transaction. There's a hundred
 9 different ways that a customer might try to talk their way out
 10 of a fee. It really falls to the supervisor to use their
 11 determination, as well as whatever resources are there. It
 12 could be that there's computer research, it could be that
 13 there's not. It could be that there's somebody who saw them
 14 come in, something that the customer has, you know, they just
 15 came to buy a ticket, so they've got a receipt. Whatever's
 16 available. It's really down to the supervisor's willingness to
 17 research and come up with what the case may be for that
 18 individual customer.
 19 Q Well, isn't it the case that the first thing that the
 20 supervisor does is check the computer records, or whether there
 21 is a computer record of the entry of this particular vehicle's
 22 license plate?
 23 A That is usually their first go-to option, because that's
 24 the quickest.
 25 Q Okay.

1 at the main base, so they can usually get admin staff or
 2 somebody. But it's basically anybody who is above the
 3 authority of the person who's being issued it, so that we don't
 4 create issues amongst the union for a witness amongst them, who
 5 is willing to come in and sit down, who has the time to come in
 6 and sit down and listen
 7 Q Okay. And now this use of witnesses, is it fair to
 8 understand that that is generally dealing with things like
 9 their uniform being wrong, or talking on the phone, or being
 10 asleep in the booth? That's when you're looking for witnesses,
 11 correct?
 12 A No. The witness would actually just be -- on the bottom
 13 of the three exhibits book, 9, 10, or 11, you have the witness
 14 line. If the employee refuses to sign their disciplinary
 15 notice, then we need a witness. If the employee will sign it,
 16 then we don't need a witness to that at all.
 17 Q Okay. So this is only just whether or not someone is
 18 willing to sign. You're not talking about a witness to the
 19 behavior itself.
 20 A Correct. If there's a greater dispute as to you know, I
 21 didn't -- I wasn't on my phone, then the supervisors would
 22 start gathering statements from anybody who saw them doing
 23 that, or check to see if we had recordings, or whatever we were
 24 going to need from the impending grievance.
 25 Q Okay. So, let's go over some examples, then, of the kinds

1 MS. COTE: If I could have a moment, please?
 2 HEARING OFFICER SAVE LAND: Sure.
 3 Q BY MS. COTE: Now, you mentioned in terms of disciplinary
 4 actions, in your direct testimony, as to all these job
 5 descriptions. My understanding from your testimony is that the
 6 supervisors do not need permission before they issue
 7 discipline. All of the supervisors under discussion today, is
 8 that right?
 9 A That is correct.
 10 Q Now, when you -- when the term, they do not need
 11 permission before they issue discipline, what does issue mean?
 12 A I mean, when they draft it up, and they sit down, and they
 13 give it to the employee. At which point, if it's -- you know,
 14 if it's a matter of sending them home, then they would usually
 15 inform us that they did so, but it's -- the whole process of
 16 coming up with you know, the disciplinary form. Issuing it to
 17 the employee, getting a witness if they need one. If there's
 18 not one available, they usually have to call somebody over to
 19 do that, and then taking care of the -- getting signatures
 20 required.
 21 Q So, if they don't have a witness, they're supposed to try
 22 to get a witness, correct?
 23 A Yeah. If they don't have a witness, most of the time,
 24 there's two supervisors at a location. If it's a lane
 25 supervisor, if it's -- you know, a finance supervisor, they're

1 of things that we're talking about, discipline. We're talking
 2 about disciplines for whether the uniforms are right, correct?
 3 A We don't usually issue specific discipline to that,
 4 because uniforms are covered under their incentives. So if
 5 somebody comes in and they're not in their uniform, then that
 6 would be marked in that supervisor's attendance record for the
 7 employee, that, you know, they didn't get the point for that
 8 day for uniform. It would only really result in an actual
 9 progressive disciplinary warning if it was something that they
 10 had been spoken to about -- you know, I told you three times
 11 this week, you're not allowed to wear high heels. You're
 12 wearing them again. Then it would become a progressive
 13 disciplinary step.
 14 Q So this is wearing of high heels, or the missing of a name
 15 badge, these are things that the supervisor is noting,
 16 observing, and making note of, correct?
 17 A Uh-huh.
 18 Q Is that a yes?
 19 A Yes.
 20 Q And bringing it to the attention, then, of the employee,
 21 correct?
 22 A Correct.
 23 Q And sometimes warning notices are issued, also correct?
 24 A Correct.
 25 Q And what's the difference between a discipline and a

1 warning notice?

2 A A warning notice would really just be if it's a procedural
3 thing as to their job, it would be one of the opportunities to
4 improve. Which is really just a way for us to physically
5 document a verbal warning, I mean, it's a paper trail for
6 discussing an employee's issue with them. It might also be in
7 the form of just literally, sitting down and talking to
8 somebody, and then sending an email to HR afterwards, that
9 said, you know, for the record, I spoke to this person today
10 about this behavior. So it's not actually any kind of
11 progressive disciplinary step. It's not going to be able to be
12 used as, you know, if they do it again, it's not going to be a
13 second notification now. It's just going to be additional
14 backup, if it does become a writeup, that you were spoken to
15 about it on this date.

16 Q So it's like a counseling session, correct?

17 A Exactly

18 Q A counseling session is different from a warning notice,
19 which is different from a disciplinary notice, correct?

20 A There -- I mean, a disciplinary notice and a warning
21 notice, it's a progressive disciplinary warning, so that's the
22 same thing, but yes, counseling would be either just one-on-one
23 or the opportunities to improve.

24 Q And I understand it's your testimony that these
25 supervisors has (sic) full authority to issue discipline.

1 A Correct.

2 Q And this is verbal warnings?

3 A Oh-huh.

4 Q Writ -- is that a yes?

5 A Yes.

6 Q Written warnings?

7 A Yes.

8 Q Suspensions?

9 A Yes.

10 Q Terminations?

11 A Terminations are -- they will go through -- what they'll
12 issue is called a suspension pending investigation. Anytime
13 anything is going to involve in a termination, it requires more
14 than one person. That's true if it's a supervisor or a manager
15 or anybody. There has to be some oversight from somebody else
16 to help with the investigation, to make sure we're not
17 terminating somebody without cause.

18 Q So that means they do not have independent authority to
19 terminate someone, is that correct?

20 A That means that nobody at our location, including Isaac
21 Kilgore, has that authority.

22 Q And Isaac Kilgore is who?

23 A The general manager.

24 Q Okay. So you're saying it takes two people to sign off on
25 a termination.

1 A Correct.

2 Q And that since the supervisors, according to your
3 testimony, have full authority to do this without consultation,
4 and they have full discretion, then I am to understand that --
5 do I understand correctly that human resources also has no
6 role? That this is up to the supervisors entirely, except when
7 it comes to termination. Is that correct?

8 A Human resources would provide some of the oversight to
9 make sure that every documentation is in place, that's
10 required. Human resources is not required if the discipline is
11 being issued. They would then be the follow up that says, we
12 have everything, here's what we're going to need for the
13 grievances, and help with the preparation of that.

14 Q So, human resources has a role when discipline is issued,
15 but it's only a follow up to make sure all the documentation's
16 in place, is that correct?

17 A Human resources is there more as an advisory, to make sure
18 we're all following the same rules.

19 Q Okay. Now, is there a written policy to that effect in a
20 company?

21 A The progressive disciplinary is in all of the handbooks
22 that explains that you know, in the supervisor handbook, this
23 is how you issue progressive disciplinary steps. I can't speak
24 to whether or not we actually have something in corporate that
25 says what, exactly, HR does, but it does outline the

1 progressive disciplinary steps that supervisors can go through.

2 Q Now, are there occasions in terms of the way things
3 operate out there, where supervisors and managers, assistant
4 general managers, are -- get communications from human
5 resources or the general manager? This is how we're going to
6 implement this. I mean, do you get directions from higher ups?

7 A Of course.

8 Q On certain operational decisions, et cetera?

9 A Of course. Anytime there's a change to our standard
10 operating procedure, if there's a change in corporate that
11 needs to go down, that that filters in reverse. It would come
12 from whoever originated it to the general manager, and then
13 through the management chain down to the supervisors and the
14 employees.

15 Q Okay.

16 MS. COTE: If I could have a moment?

17 Q BY MS. COTE: Now, Mr. Jorgenson, you would agree, would
18 you not, that the supervisors have no authority to hire?

19 A No. They would be consulted as far as interviews if we
20 had any questions, but the sole hiring does not land on them.

21 Q So is it your testimony then that the supervisors
22 interview prospective employees?

23 A They do not interview anybody by themselves; however, they
24 are -- can be called in to assist in an interview. In many
25 instances, HR doesn't know exactly what a license plate

1 inventory person does, so they have a hard time judging if
 2 somebody's going to be a good fit. So if they pass the initial
 3 screening, then they might sit down with HR as well as a
 4 license plate inventory supervisor, to interview them together,
 5 and then the supervisor's input will be greatly used in
 6 determining who's going to actually be hired.
 7 Q And who is HR? Or is there more than one?
 8 A We have two.
 9 Q Who is that?
 10 A We have Bobby Nealy, who is the HR generalist, and then we
 11 have an HR coordinator Denise Cratke
 12 Q Does one have authority over the other?
 13 A Bobby is the one in charge.
 14 Q Okay. It is also true that the supervisors have no
 15 authority to decide who to suspend, isn't that true?
 16 A No.
 17 Q Not true?
 18 A Not true.
 19 Q And again, they have full authority, and don't have to
 20 consult anybody.
 21 A Yes. If we had something that was a serious enough issue
 22 that it has to result in suspension, then they're perfectly
 23 capable of carrying that out. That's actually in one of these
 24 exhibits, where a supervisor did a suspension all on their own.
 25 Number 9. That is supervisor Binyam Daba, suspending an

1 employee for three days, without anybody's approval to do so.
 2 Q Well, it does have a manager's signature, doesn't it?
 3 A It has a manager's review signature.
 4 Q And is it your position, then, that the manager does not
 5 have the authority to change these disciplines?
 6 A They have the authority to investigate them, and if they
 7 find that something was done in fault, that's going to result
 8 in a suspension that shouldn't have been issued, they can
 9 overrule it, but it can still stand. And for the most part,
 10 it's just an investigatory procedure for the sake of making
 11 sure that all of our HR guidelines are being followed.
 12 Q So since they have the authority to overrule it, do the
 13 managers then review these disciplines before they are actually
 14 delivered to the employee?
 15 A No, they do not. It would -- like I say, it's a follow
 16 up. In most cases, if it was issued improperly, then we call
 17 them back and pay them for the time, but since it's issued by a
 18 supervisor, the only reason we would ever have a reason to
 19 overrule it before it was issued is if that individual
 20 supervisor came to consult us beforehand, which isn't required,
 21 but some choose to do.
 22 Q It's also true that supervisors have no authority to make
 23 decisions with regards to layoffs or recalls, right?
 24 A That is correct.
 25 Q And they don't have authority in terms of who gets a

1 promotion. You don't have them -- do you?
 2 A Promotions? No, I mean, we would use -- again, same as
 3 interviewing. If we had two candidates who had applied for a
 4 promotion, if they were internal, and they wanted to be
 5 promoted to a supervisor, we might ask the other supervisors,
 6 that you've worked with this person. Do you feel that they can
 7 handle your -- the responsibility? Because they have really,
 8 the first hand knowledge of that employee's performance, above
 9 what we have.
 10 Q So if at all, the supervisors might be consulted, and
 11 sometimes they're not, right?
 12 A They are --
 13 Q For promotion?
 14 A Yeah. They are consulted, I think, every time. I don't
 15 do --
 16 Q So --
 17 A -- the promotions myself, so I can't say for certain.
 18 Q -- you can't say that they are every time, then, if you
 19 don't do them yourself, do you sir?
 20 A No. I also can't say that they're not.
 21 Q Well, but you can't say that they are.
 22 A Uh-huh.
 23 Q All right. And you contend, again, that they have full
 24 authority to discharge people, with consultation with some
 25 other second person.

1 A They can -- yes.
 2 Q Okay. They do assignments, daily assignments, and fill
 3 in, correct?
 4 A Correct.
 5 Q Uh-huh. And without consultation with managers.
 6 A Correct.
 7 Q And they do the reward programs, right?
 8 A Correct.
 9 Q But do they consult managers on the rewards?
 10 A No.
 11 Q Who issues the rewards? Isn't it true that the managers
 12 issue rewards under these reward programs?
 13 A No. The rewards go to their paychecks. What happens is
 14 they have their deadline, by which they have to complete their
 15 individual team incentives. Those incentives are then given to
 16 the payroll supervisor, who just compiles them all into one
 17 report, sends that in to payroll, and then payroll sends out
 18 the bonuses based on that.
 19 Q Well, isn't it true that the supervisors are gathering
 20 data that they're supposed to submit for this reward program,
 21 for the employees under them?
 22 A They are using their data as well as their judgment, in
 23 instances where --
 24 Q All right, well, wait a minute, let's back up.
 25 A Okay.

1 Q The data they get has to do with their attendance.
 2 A Right.
 3 Q It has to do with whether or not they showed up every day
 4 with the uniform, right?
 5 A Yes.
 6 Q And what else?
 7 A If they are prepared, how well they're doing, and the
 8 lanes. Actually dealing with customers, which is something
 9 that requires --
 10 Q So whether or not they meet the production requirements?
 11 A And the customer service requirements, which is a judgment
 12 based guideline
 13 Q And whether or not there are customer complaints, right?
 14 A Whether or not they're friendly enough with the customers.
 15 Even if a customer doesn't complain, but they're walking by,
 16 and they see somebody who's frowning at customers, or not
 17 greeting them, that would be their judgment call to then go in
 18 and document that for their incentives.
 19 Q Well, that's right. That's part of the disciplinary thing
 20 that they are documenting anyway, correct?
 21 A It could be not a discipline. If it's just one instance,
 22 or a handful of instances where they're not --
 23 Q For a counseling?
 24 A It would be -- it could be a counseling, but it is also
 25 documented as their incentives.

1 Q Right. So the supervisor is going into the record for any
 2 given employee, looking at their attendance, looking at whether
 3 or not their uniform was right, looking and -- to see whether
 4 they meet their production standards, looking to see whether
 5 there were any customer complaints, looking to see whether they
 6 have any documentation of counseling or other disciplines,
 7 right?
 8 A Not -- no, not right.
 9 Q Not right?
 10 A It's a daily --
 11 Q That's not what they put together and submit to management
 12 on the incentive program?
 13 A It's a daily update thing. Every day that a cashier
 14 works, there's an entry in their daily incentive log. So there
 15 may not be a record of this person didn't have their clothes,
 16 because it's up to that person, the supervisor who's there, to
 17 document it at the time. It's not several layers of
 18 documentation, where they're documenting it, and then checking
 19 their own documentation later. That could be the sole
 20 documentation, when they go into the incentives and say, you
 21 know, shirt wasn't tucked in, bad customer service.
 22 Q Okay but we've talk --
 23 A Then that would be right off their points, right there.
 24 Q Okay, but we're talking about what the supervisor looks at
 25 in order -- now -- let me back up. Supervisors submit a form

1 under this incentive program, right?
 2 A Yeah, a database.
 3 Q Right?
 4 A Yes.
 5 Q Okay. And on that form, they identify things like whether
 6 the uniform was there, whether the area was clean, whether the
 7 paperwork was accurate and that type of thing, right?
 8 A Correct.
 9 Q And that's what they note on the form.
 10 A Correct.
 11 Q And that goes in to management, right?
 12 A No. Management never sees that. That goes to the payroll
 13 supervisor --
 14 Q Okay.
 15 A -- and then to corporate headquarters.
 16 Q And so they do the computation, based on the criteria that
 17 have been identified by the supervisor.
 18 A Correct.
 19 Q After he has looked in the file and documented what is
 20 there, right?
 21 A Correct.
 22 Q And that goes -- and somebody computes, then, whether or
 23 not this person is entitled to an incentive bonus of whatever
 24 amount, right?
 25 A Yeah, it's -- they actually just hit the run button, and

1 it --
 2 Q Okay.
 3 A -- produces a report.
 4 Q So it's a mathematical formula.
 5 A As far as the payroll supervisor, it's a mathematical
 6 formula.
 7 Q Okay. Based on the criteria noted by the supervisor.
 8 A Correct.
 9 Q Based on his research of what's in the file of a given
 10 employee, right?
 11 A And what they see in the course of their duties.
 12 Q Well, what they see in the course of their duties?
 13 Documented or not documented?
 14 A It depends on if they documented it. If it's in the
 15 incentives, if they see it, then they put it in the incentives.
 16 That goes directly in the database. Nobody else would touch
 17 that.
 18 Q Okay. So it's something that they've documented.
 19 A Correct.
 20 Q Now, you also mentioned -- again, back to the discipline
 21 thing. My notes reflected, and correct me if I'm wrong, in
 22 your testimony in regards to discipline, that if the discipline
 23 is severe, we can make it a higher step. Who's the we?
 24 A Whoever's issuing the discipline.
 25 Q So the supervisor?

1 A Yeah.

2 Q Are the supervisor the exclusive people to issue
3 discipline, then?

4 A No. Anybody who is in a supervisor or a management
5 position, who witnesses something that's being done
6 incorrectly, can issue discipline.

7 Q Okay. Now, the LPI supervisors, you said, performs
8 audits? This is an audit of whether or not the LPI agents have
9 recorded license plate inspection numbers, right?

10 A Yes.

11 Q Now, the LPI agents go out with a handheld computer,
12 right?

13 A Correct.

14 Q And they are documenting what cars, by recording their
15 license plate numbers, are where?

16 A Correct.

17 Q Okay. And so, they -- the LPI agents have a certain
18 number of documentations they're supposed to do within a
19 certain period of time, right?

20 A Correct.

21 Q And the LPI supervisors then review the documents
22 generated on that handheld computer by the LPI agents, right?

23 A It depends on how they did their audit. If they're just
24 doing a speed, they can do that with the handheld records.
25 It'll show when they started doing each plate, so they can

1 divide it. If they're doing their audits correctly, then
2 they're also going along behind the individual, and
3 inventorying what they inventoried, and then doing a line by
4 line comparison of theirs and the agent's, to make sure that
5 everything was done correctly, and nothing was mis-keyed.

6 Q So this is a spot check kind of thing, that sometimes the
7 LPI supervisors go out and do the same kind -- follow along
8 behind an LPI agent, right?

9 A Correct.

10 Q So sometimes, it's a spot check, other times they are
11 looking at the computer record that the LPI agent generated
12 through his job, right?

13 A They should always be doing both.

14 Q Well, you're not contending that they spot check every
15 employee, every day, and every time they do their work, right?

16 A Every employee, once a month.

17 Q Okay. And these spot checks are for a certain period of
18 time, or a certain area, or a certain row, or something like
19 that, you know? Correct?

20 A Yeah. They'll spot check based on where that person has
21 been assigned for that time.

22 Q Okay. They don't re-do his job for the whole day?

23 A No. They'll do it for you know, an hour or two hours.

24 Q Okay. And most of their audits, then, though, would you
25 agree, are a checking to make sure the people, the LPI agents,

1 have done the production percentage they're supposed to in
2 terms of their checks.

3 A The most important part of the audits is the accuracy, not
4 the percentage.

5 Q The accuracy. Not percentage So you're saying the most
6 important part of the audit the once a month spot check
7 verified by the supervisor?

8 A Well, like I said, there's never -- the audit requires the
9 two parts. No audit is just how many plates did you do? No
10 audit is just how accurate were you? The audit should be both.
11 Because if they're only doing one, they're still missing. So
12 each of the audits they do will have the accurate percentage,
13 accuracy, and the speed.

14 Q Okay. So are these audits of the handheld computer by the
15 LPI agents done on a daily basis, then? By the supervisor, the
16 LPI supervisor?

17 A No. Again, as I said, once a month per employee, unless
18 there's some reason to be concerned.

19 Q So once a month per employee are spot checks?

20 A Yes. The spot checks with the speed checks.

21 Q And once a month per employee speed checks.

22 A Yes.

23 Q So that is just looking once a month at employee A, and
24 checking for a certain period of time whether or not they were
25 accurate, and whether or not they got the proper account volume

1 -- count volume, right?

2 A Correct.

3 Q Okay. Now, in terms of the finance supervisors, you
4 testified that they clear up issues, they go in and look at the
5 system. They're there trying to find financial problems and
6 financial errors, isn't that true?

7 A That is part of their job, yes.

8 Q Okay And in terms of audit supervisors, and the job
9 description I think makes clear, too; these again are doing
10 financial -- these audit supervisors are doing financial
11 checks, mathematical calculations, right?

12 A The audit supervisors are auditing their auditors. They
13 go through behind them, make sure that they found everything
14 that needed to be found. If there's any discrepancies, an
15 issue with a shift, that an auditor missed. They're the ones
16 who are responsible for making sure that the auditors are
17 accurate.

18 Q Okay, my question was, these are mathematical
19 calculations, are they not?

20 A No.

21 Q They're not? What are they?

22 A They are going through and auditing a shift after an
23 auditor has done it, and making sure --

24 Q Auditing what?

25 A -- that it's correct. A shift. A transaction log, how

1 much money there was. Was each transaction calculated
 2 correctly? Was each exception transaction processed following
 3 the SOPs? Is everything signed that needs to be signed? Do we
 4 have all the customers' information?
 5 Q Okay. So when they're checking the transaction accuracy,
 6 they're not using mathematical calculations?
 7 A Is spelling math?
 8 Q Is it?
 9 A Some of it is accuracy involving math. Some of it is
 10 accuracy not --
 11 Q That's all I asked you, sir. All I asked you was whether
 12 or not this involved mathematical calculations, and it does, in
 13 part --
 14 A In a portion, yes.
 15 Q -- does it not? And in doing these functions, the audit
 16 supervisors is checking behind the audit clerks, right?
 17 A Correct.
 18 Q In all the things that you've described.
 19 A Correct.
 20 Q They're checking paperwork, right?
 21 A Correct.
 22 Q Now, these supervisors are paid hourly, right?
 23 A That is correct. They're -- what they're called is salary
 24 non-exempt. They have an annual salary, but they have an
 25 hourly wage that's used for calculating overtime.

1 Q Now, your counsel introduced documents about the incentive
 2 program for supervisors. It was the company's Exhibit 7 and 8,
 3 about the incentive program details.
 4 A Yes.
 5 Q Are there such documents for the people who work under the
 6 lane supervisors and the audit supervisors?
 7 A Yes.
 8 Q Do you have them here?
 9 A I don't have anything here.
 10 Q You don't have anything here?
 11 A Do you have -- do we have those?
 12 Q Do these incentive program details for the individuals
 13 outline, then, who makes the decision about whether or not the
 14 incentive is paid, and to what degree it's paid?
 15 A There is -- you'll notice page four of the lane supervisor
 16 document, document 7, as actually specifically lists points and
 17 the levels, the dollar levels, for each point. There is such a
 18 page for the front line employee classifications as well.
 19 Q And in what the supervisors prepare on this incentive
 20 program, do they have to attach supporting documentation?
 21 A It's all a database, so it -- what they enter goes into
 22 the database, generates the reports, and that is what's used to
 23 get bonuses.
 24 Q So, my question though, is, what the supervisors submit.
 25 Do they submit a point calculation, or are they submitting

1 uniform correct through the whole time, et cetera?
 2 A It's an access database, so it's actually an entry form in
 3 the computer that they fill out. They're not physically
 4 submitting any papers. Now, hopefully, if there's an absence,
 5 then there's also paperwork to document that absence, but they
 6 don't turn that in with the incentive reports, because that's
 7 all 100 percent electronic.
 8 Q Okay, so is the supervisor designating how many points a
 9 particular individual should get, or is the supervisor simply
 10 reporting uniform correct, no disciplines, that type of thing?
 11 A They're reporting the points by day, and that would
 12 include in their comment section, if there is anything that
 13 they feel should have additional points. I believe if the
 14 cashiers go in for additional training, cross-training. If
 15 they go online for training, they get bonus points for that,
 16 and that would be designated through that section.
 17 Q Okay Company Number 9, the second page. There is a
 18 signature, apparently according to Mr. Abdulaahi, there's a
 19 signature after finance of a Binyam Daba.
 20 A Binyam Daba, yes, that's correct.
 21 Q And he is a supervisor, right?
 22 A He is.
 23 Q And who was the finance manager at the time that this
 24 document was signed? Do you know?
 25 A I do not know.

1 Q And it is also your testimony then, that managers need not
 2 approve mutuals that are worked out between the employees, is
 3 that right?
 4 A That is correct. The supervisors do the approval, and
 5 then it's turned in to either a manager or office staff, and
 6 put into the calendar, basically, that's used -- given as a
 7 resource to the supervisors. The only reason that they would
 8 ever veto it, or attempt to veto it, at that, would be if they
 9 noticed something in the calendar that the supervisor had not.
 10 Q Would -- are there occasions when emails are sent out to
 11 the supervisors, with instruction from HR or a general manager?
 12 A Yes.
 13 Q And would you be copied on such communications?
 14 A I hope so.
 15 Q Okay. It's your experience that you are consistently
 16 copied on such things, is it not, sir?
 17 A Yes.
 18 Q It would be important for you to know what the operational
 19 needs, requirements, dictates, were, would it not?
 20 A Correct.
 21 Q Now, if you could refer to Company Exhibit 10, and the
 22 second page there. This is a Standard form, an attendance
 23 tracking form, it says. Did you find that?
 24 A Yes.
 25 Q And this is maintained again by the supervisors, right?

1 A Correct.

2 Q And they are noting absences, call-ins, that type of

3 thing, correct?

4 A Correct.

5 Q They also -- are they also doing the calculations? Like

6 the second line here says, "One year credit, three points comes

7 off." Are they doing independent calculations based on

8 paperwork, or is this a computer program that generates this?

9 A They're doing that That actually requires them to go

10 back through the history of the tracker, and see if there's

11 anything that happened a year ago that they need to issue

12 credits for.

13 Q So they're doing a paperwork check here, too, right?

14 A Correct.

15 Q Now, the -- this paperwork that's attached here to Company

16 10, you say that there is no requirement for review, or

17 approval, or anything else by management or HR, but -- so why

18 is this documentation attached?

19 A So that we have it in the file If there is ever a

20 grievance, we know what they were thinking at the time that

21 they issued it, and they're not trying to remember what they

22 were doing three months ago.

23 Q And so can discipline -- but can a supervisor issue

24 discipline without attaching any documents?

25 A It wouldn't be very professional, but they could.

1 Q Now, in terms of Company Exhibit 11, this was issued more

2 than a year ago. There are no documents attached here. Were

3 there documents attached, and they just aren't produced here

4 today, or --

5 A I cannot say.

6 Q -- do you know?

7 A I do not know.

8 Q And again, it's your testimony that there's no requirement

9 for documents to be attached, right?

10 A Correct.

11 MS. COTE: I have nothing further at this time. Thank

12 you.

13 HEARING OFFICER SAVELAND: Okay. I have a few questions.

14 I'm going to try to be quick. I'm going to be a little all

15 over the place. But let's start off first, if you can give me

16 -- can we get some numbers on how many people are in each of

17 these classifications? So like, for the LPI supervisors, do

18 you know about how many you have?

19 THE WITNESS: One and a half.

20 HEARING OFFICER SAVELAND: So one works part-time?

21 THE WITNESS: One of them works two days a week as an LPI

22 supervisor, three days a week as a lane supervisor.

23 HEARING OFFICER SAVELAND: Okay. And so how many

24 supervisors do you have? Lane supervisors?

25 THE WITNESS: Fifteen, including that --

1 HEARING OFFICER SAVELAND: Including that part-time.

2 THE WITNESS: -- half one.

3 HEARING OFFICER SAVELAND: And the traffic supervisors?

4 THE WITNESS: Three.

5 HEARING OFFICER SAVELAND: Finance supervisors?

6 THE WITNESS: Two.

7 HEARING OFFICER SAVELAND: Audit supervisors?

8 THE WITNESS: One.

9 HEARING OFFICER SAVELAND: And about how many people are

10 they -- are all the non-supervisor classifications?

11 THE WITNESS: I believe we're at 150 now.

12 HEARING OFFICER SAVELAND: A hundred and fifty,

13 approximately. Okay. Do any of the supervisors have the

14 ability to transfer employees among the classifications?

15 THE WITNESS: That's actually done through a bidding

16 process, by the union rules.

17 HEARING OFFICER SAVELAND: Okay, so no. Then I know there

18 was some testimony that supervisors can adjust grievances. Do

19 you know if any of these supervisors are able to settle the

20 grievance at step one, without bringing in a manager or

21 somebody else to --

22 THE WITNESS: Yeah, there have --

23 HEARING OFFICER SAVELAND: -- participate?

24 THE WITNESS: -- been a few cases where they've actually

25 gone in and said, okay, I misunderstood what I saw. I think

1 back in --

2 HEARING OFFICER SAVELAND: And then they'll remove the

3 discipline?

4 THE WITNESS: -- it's all done. Yeah.

5 HEARING OFFICER SAVELAND: Okay. And they can do that

6 without checking with a manager?

7 THE WITNESS: Correct.

8 HEARING OFFICER SAVELAND: Okay. Okay. You were talking

9 before about -- I think it was the backup count, and that means

10 how full the lots are? Is that correct, or --

11 THE WITNESS: Yeah. It's just a recount, to make sure

12 that our current running total of how many spaces we have is

13 accurate.

14 HEARING OFFICER SAVELAND: And so is there a contractual

15 term that says when you need to open a new lot? Like open the

16 overflow lot, or something like that, or is that just --

17 THE WITNESS: It's not written in the contract. It's

18 basically we have set numbers that the city has told us that

19 they like to see it opened at, and so that's what we aim for.

20 HEARING OFFICER SAVELAND: Okay, so if you approach that

21 number, that's when you would open an additional lot.

22 THE WITNESS: Correct.

23 HEARING OFFICER SAVELAND: Okay. And if somebody calls in

24 on a particular day, on one of the daily schedules, so that you

25 have a couple slots to fill, or the supervisor has to fill a

1 couple slots, would that supervisor fill the empty slot with
2 somebody of the same class, or can they choose to bring in
3 somebody different?

4 THE WITNESS: They can choose anybody who is trained for
5 that classification.

6 HEARING OFFICER SVELAND: Okay.

7 THE WITNESS: So if we have some traffic agents who are
8 trained as cashiers, and they're going down the seniority list
9 of the cashiers, and nobody says they want it, then they can,
10 you know, call over to the traffic agents that they know are
11 trained, and say, would you like to stay?

12 HEARING OFFICER SVELAND: Okay, and they go by seniority,
13 and that's because of the collective bargaining agreement

14 THE WITNESS: Correct.

15 HEARING OFFICER SVELAND: And are all of the employees --
16 I think I may have asked this before, but are all the employees
17 under the collective bargaining agreement?

18 THE WITNESS: Yeah, everybody below a supervisor.

19 HEARING OFFICER SVELAND: Okay. With the master
20 schedule, does the master schedule actually designate where a
21 particular -- which lot a particular employee is going to be
22 working at that day, or what --

23 THE WITNESS: Yeah. It goes by lot, and there are some
24 instances where if we have -- say we've got three employees
25 that called out on one side, but we have all of our employees

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1 on the other side, the supervisors do have the right to move
2 them from their normal, their master location, to help cover if
3 we don't have enough people that are willing to stay, so --

4 HEARING OFFICER SVELAND: So --

5 THE WITNESS: -- it's not set in stone, but it does say
6 this person is signed up to work in the east garage on these
7 days.

8 HEARING OFFICER SVELAND: Do they usually work in the
9 same location? Like, is one employee usually always in the
10 east garage, or does it just kind of change around depending on
11 the schedule?

12 THE WITNESS: It kind of depends on the shifts that they
13 bid on. The master schedule as a whole does try to keep them
14 in one place, but there are some that work one day in one
15 location, two days in another location.

16 HEARING OFFICER SVELAND: How often does the master
17 schedule come out?

18 THE WITNESS: It comes out whenever we have to make an
19 overall change to our schedule, based on some change by the
20 city or the operation.

21 HEARING OFFICER SVELAND: Oh, so it's like a long-term
22 schedule?

23 THE WITNESS: Yeah, it's a long-term schedule. We only do
24 -- you know, I'll do -- I'll advise it if say, somebody quits,
25 and somebody else bids into their position. Then I would send

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1 out an update that says, this person is now on this shift. But
2 the schedule as a whole, as to how many cashiers per day,
3 that's -- it lasts for months to a year.

4 HEARING OFFICER SVELAND: Okay, so do you have a
5 relatively low turnover rate, then, from what you're saying?

6 THE WITNESS: Yeah, actually.

7 HEARING OFFICER SVELAND: With respect to the mutuals?

8 THE WITNESS: Uh-huh?

9 HEARING OFFICER SVELAND: Are there guidelines that the
10 employees have to kind of follow in order to get to the point
11 where they can even make that request? Like, they know I need
12 to get so and so to sign off on this, or --

13 THE WITNESS: Yeah, it --

14 HEARING OFFICER SVELAND: -- is there a guideline?

15 THE WITNESS: It has to be signed by both parties in
16 advance. If there's some extenuating circumstance where
17 somebody won't be able to see each other until the day of, then
18 we can call them, and get witnesses to say they want to do it.
19 It can't create overtime amongst other employees, and if they
20 sign up for an overtime shift, they can't do a shift trade for
21 that overtime shift.

22 HEARING OFFICER SVELAND: So if you have a regular shift,
23 you can't take -- you can't switch with an overtime.

24 THE WITNESS: Right, and those rules are all actually in
25 the collective bargaining agreement. And then the only

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1 additional rules we impose is that it can't be a long term
2 pattern.

3 HEARING OFFICER SVELAND: Okay.

4 THE WITNESS: That somebody can't trade --

5 HEARING OFFICER SVELAND: Somebody's not changing --

6 THE WITNESS: -- all their Fridays.

7 HEARING OFFICER SVELAND: -- their shift --

8 THE WITNESS: Yeah.

9 HEARING OFFICER SVELAND: -- completely. And who assigns
10 overtime?

11 THE WITNESS: Overtime is also done on a bid process,
12 based from week to week, based on what we need, we post a
13 schedule of what we have open. You know, if we've got somebody
14 who's on leave, or on vacation for a week, then we'll post that
15 shift. And then, we vary the times it's posted up, and it's
16 kind of first come, first serve, they have some guidelines.
17 They can only get one a day, and things like that. But they
18 just volunteer for them in advance.

19 HEARING OFFICER SVELAND: And it's first come, first
20 serve, or seniority?

21 THE WITNESS: That is first come, first serve, once it's
22 posted.

23 HEARING OFFICER SVELAND: Once it's posted.

24 THE WITNESS: If two people submit it at the exact same
25 time, it would go on seniority between them.

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1 HEARING OFFICER SAVELAND: Okay. Just real quickly, with
2 respect to the reward program, the incentive program for the
3 employees, the non-supervisor employees. When the supervisors
4 are filling it out, if I understand correctly, they're filling
5 something out on their computer, not on a piece of paper.

6 THE WITNESS: Correct.

7 HEARING OFFICER SAVELAND: And they're assigning -- are
8 there several line items that they can then assign points to?

9 THE WITNESS: Yeah, it's laid out as a grid, so it's got
10 the different categories, and then they mark the points in
11 those.

12 HEARING OFFICER SAVELAND: And then once they finish that,
13 they send it off to payroll, and payroll actually looks and
14 adds up the numbers, the points?

15 THE WITNESS: Yeah, I mean -- and it's all done
16 automatically, like I said, it's access, so all she can see is
17 that the points are there, and if there's somebody who's
18 missing a couple weeks, she would submit something to the
19 supervisor asking them to get it up to date, because it's due.

20 HEARING OFFICER SAVELAND: And -- okay. And how often do
21 those go out? The incentive program reports?

22 THE WITNESS: It's monthly.

23 HEARING OFFICER SAVELAND: So every month, and then --

24 THE WITNESS: And they have to be done.

25 HEARING OFFICER SAVELAND: -- depending on the points,

1 kind of like on the lane supervisors at the program, depending
2 on their points, they get a certain amount of money?

3 THE WITNESS: Correct.

4 HEARING OFFICER SAVELAND: Can they get anything besides
5 that, or is that what they get?

6 THE WITNESS: That's what they get. The only -- I mean,
7 there is an additional, separate incentive program that's --
8 that -- I don't know, it used to be based on a raffle. I don't
9 even know what it is now, but --

10 HEARING OFFICER SAVELAND: Okay.

11 THE WITNESS: -- this is their monthly that's always those
12 designated amounts.

13 HEARING OFFICER SAVELAND: And on the rewards form that
14 the supervisors fill out. You said there's like a blank
15 portion for them to add in for outstanding performance, or --

16 THE WITNESS: Yeah. There's a comment section, so if they
17 have something like, this person did a training, or this person
18 had something going on, then they can mark that there.

19 HEARING OFFICER SAVELAND: And would they assign a point
20 value to that, or would somebody have to review that and say,
21 since they did this extra program, they're going to get an
22 extra four points on their total? How do we decide the points
23 on the extras?

24 THE WITNESS: Honestly, I don't know where that gets
25 physically added in. I think it might happen in corporate, but

1 I --

2 HEARING OFFICER SAVELAND: Okay. So it wouldn't be the
3 supervisor deciding let's give them an extra seven points for
4 being --

5 THE WITNESS: No, they would make a recommendation, and
6 somebody else, because it's not part of the basic math, would
7 have to actually add it in to the Excel, or the access
8 database.

9 HEARING OFFICER SAVELAND: Do you know about how often
10 employees end up getting suspended?

11 THE WITNESS: I think somebody -- really, I mean, maybe
12 once a month, we get somebody suspended? If it's a
13 particularly bad month, it might happen a couple more times,
14 but --

15 HEARING OFFICER SAVELAND: And what about discharges?
16 Fired?

17 THE WITNESS: That is very rare.

18 HEARING OFFICER SAVELAND: Okay. Do the supervisors do
19 independent evaluations? Independent of -- I guess, what I'm
20 saying, the incentive program? Like a regular employee
21 evaluation? Other ways?

22 THE WITNESS: No, we don't. We don't do employee
23 evaluations --

24 HEARING OFFICER SAVELAND: Okay.

25 THE WITNESS: -- for the front line employees.

1 HEARING OFFICER SAVELAND: Are the supervisors subject to
2 an evaluation from managers above them?

3 THE WITNESS: Yes.

4 HEARING OFFICER SAVELAND: And how often do they get
5 evaluated?

6 THE WITNESS: Those are done annually.

7 HEARING OFFICER SAVELAND: So they get an annual
8 evaluation, but the people below them do not get an annual
9 evaluation?

10 THE WITNESS: Correct.

11 HEARING OFFICER SAVELAND: And do those annual evaluations
12 effect their wages? Can they get raises from it, or demotions?

13 THE WITNESS: Yes. They get annual raises. Usually, the
14 past couple years, the annual raises were set by the company,
15 fairly low, so they didn't really get effected. But it can, if
16 somebody got a particularly poor evaluation, have a negative
17 impact on their raises.

18 HEARING OFFICER SAVELAND: Do all the employees wear --
19 employees and supervisors wear uniforms to work?

20 THE WITNESS: Everybody, aside from office staff, wears a
21 uniform, and that's actually in our contract with the city.

22 HEARING OFFICER SAVELAND: Is it the same uniform, or how
23 does it -- how do they differ?

24 THE WITNESS: It is a different uniform. They are -- in
25 fact, you can see, John out there is wearing the old supervisor

1 shirts. We have switched them to silver recently, because they
 2 discontinued that color.
 3 HEARING OFFICER SVELAND: So it's like a silver button
 4 down shirt?
 5 THE WITNESS: Yeah.
 6 HEARING OFFICER SVELAND: Okay.
 7 THE WITNESS: Traffic agents wear green shirts and black
 8 pants. Cashiers wear blue shirts and tan pants. Clerks are on
 9 the --
 10 HEARING OFFICER SVELAND: Okay, so -- let me get it. Let
 11 me see. Is office just the audit and finance supervisors?
 12 THE WITNESS Yeah, but the actual front line, the clerks,
 13 don't have to wear a uniform for the --
 14 HEARING OFFICER SVELAND. Okay, so they don't have to
 15 wear uniforms?
 16 THE WITNESS: Correct.
 17 HEARING OFFICER SVELAND: They don't have to wear name
 18 tags or anything like that?
 19 THE WITNESS: No.
 20 HEARING OFFICER SVELAND: But then the lane, traffic, and
 21 LPI supervisors, they would all wear these silver button down
 22 shirts, you're saying?
 23 THE WITNESS: Correct.
 24 HEARING OFFICER SVELAND: Do they have to wear name tags?
 25 THE WITNESS: No. Well, everybody has badges that were

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1 issued by the city, so those kind of serve as our name --
 2 HEARING OFFICER SVELAND: And --
 3 THE WITNESS: -- name tags, so we don't.
 4 HEARING OFFICER SVELAND: Okay, and what about the non-
 5 supervisor employees? What do they -- do they have to wear
 6 name tags or anything in addition to the badge?
 7 THE WITNESS: No. They have nameplates that they put on
 8 the outside of their booth, for the cashiers
 9 HEARING OFFICER SVELAND: Okay.
 10 THE WITNESS: Which is just a little slider that goes in,
 11 so the customers can identify them.
 12 HEARING OFFICER SVELAND: Do the supervisors have to
 13 attend any sort of supervisory meetings with the managers on
 14 duty, or any of the higher up supervisors on a regular basis?
 15 THE WITNESS. They have quarterly training, and they are
 16 also expected to review the monthly team meetings with their
 17 operations managers.
 18 HEARING OFFICER SVELAND: Okay. So they -- the
 19 supervisors were on those monthly team meetings, I think you
 20 said, right?
 21 THE WITNESS: Yes.
 22 HEARING OFFICER SVELAND: And that's with their
 23 employees.
 24 THE WITNESS: Correct.
 25 HEARING OFFICER SVELAND: Okay. And then they would

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1 report back to the manager on duty, or --
 2 THE WITNESS: Yeah. Well, the -- when the manager on duty
 3 would issue it, they would make sure that the supervisors
 4 understood the things that they wanted everybody to understand
 5 before the supervisor did their team meeting.
 6 HEARING OFFICER SVELAND: Okay. So the manager on duty
 7 -- and this occurs once a month?
 8 THE WITNESS: Yes.
 9 HEARING OFFICER SVELAND: Will tell the supervisors these
 10 are the issues that I want you to address; people aren't doing
 11 this, or they need to do that?
 12 THE WITNESS: Correct.
 13 HEARING OFFICER SVELAND: And then the supervisor goes
 14 out, has that meeting with its employees, and then goes back
 15 and reports to the manager on duty, I discussed all of this
 16 with them, and these are the --
 17 THE WITNESS: Right.
 18 HEARING OFFICER SVELAND: -- issues that came up.
 19 THE WITNESS. And then they have a sign sheet, too, that
 20 all of the employees on their team sign to show that they
 21 received the monthly meeting.
 22 HEARING OFFICER SVELAND: Okay. So they have a little
 23 bit of a -- they have a guideline, as to what's going to be
 24 discussed at their meetings?
 25 THE WITNESS: Right. They have -- they're given minimums,

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1 and then beyond that, they can add. I had one who used to put
 2 a lot of pictures of kittens and such things.
 3 HEARING OFFICER SVELAND. Okay. Let's see. Do the
 4 supervisors have different benefits than the non-supervisor
 5 employees? Like as far as insurance goes, or --
 6 THE WITNESS: I don't think so.
 7 HEARING OFFICER SVELAND: -- IRAs or anything like that?
 8 THE WITNESS: They have the ability to sign up for a
 9 401(k), as well as extended disability coverage, but the base
 10 benefits, the medical and dental is the same program for
 11 everybody.
 12 HEARING OFFICER SVELAND: Okay, including the managers on
 13 duty and on up?
 14 THE WITNESS: Yes.
 15 HEARING OFFICER SVELAND: Okay, so everybody has the same
 16 fringe benefits?
 17 THE WITNESS: Correct.
 18 HEARING OFFICER SVELAND: Do you have any break room for
 19 everybody, or is it just in the airport? You just go into the
 20 airport?
 21 THE WITNESS: No, we've got a break room. We've actually
 22 got a break room both in the main office and then a couple of
 23 break room tables in the satellite offices.
 24 HEARING OFFICER SVELAND: Okay. And are those usable by
 25 any employee?

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1 THE WITNESS: Yeah.

2 HEARING OFFICER SVELAND: Manager, supervisor, and below?

3 THE WITNESS: Correct.

4 HEARING OFFICER SVELAND: Okay. Just one moment. Okay.

5 I think that's all my questions. Any more questions from the

6 Employer?

7 MR HARVEY: No.

8 HEARING OFFICER SVELAND: Ms. Cote?

9 MS. COTE: Yes. Thank you.

10 **CROSS-EXAMINATION (CONTINUED)**

11 Q BY MS. COTE. And you were asked questions, sir, regarding

12 overtime? You said this is done on a bid process, but we post

13 a schedule. The we are the managers, right?

14 A Yes.

15 Q In terms of the incentive programs for non-supervisors,

16 you testified that the supervisors were filling out on a

17 computer points. Now, these points are set, right? It's not

18 that the supervisors can judge, I'm going to give this guy five

19 points or this guy seven points?

20 A No, there's a max for each area. For instance, uniforms,

21 you either get a one or a zero. So each --

22 Q So either they were -- they had their uniform on every

23 day, properly, they get a one, if they missed a day, they get a

24 zero.

25 A Correct, and I don't -- I can't tell you all of the

1 classifications, so I don't know all of the point values. If

2 there's any instances where there's more than one point, that

3 they could be issued half points, I don't know.

4 Q Okay. But it is true, is it not, that the supervisors

5 can't decide up to five points, and give somebody four,

6 somebody else three, in regards to a particular criteria? It's

7 either they get five points, or they get zero points, or one

8 point or get zero points.

9 A I don't know.

10 Q Depending on what's being evaluated. Isn't that true?

11 You don't know?

12 A No.

13 Q Do you know whether or not supervisors can assign certain

14 points in the comments section?

15 A I do not know that, either

16 Q Did I understand your testimony correctly, sir, that the

17 supervisors get an annual -- uniformly get an annual raise?

18 A We have raises that are set by the company. The company

19 sets a max raise. Now, depending on their annual evaluation,

20 they could get less than that, but they can't get more than

21 that.

22 Q I have nothing else. Thank you.

23 HEARING OFFICER SVELAND: Anything else from the

24 employer?

25 MR. HARVEY: No.

1 HEARING OFFICER SVELAND: Okay, I think you're excused,

2 Mr. Jorgenson. I guess we should take a break. Does -- do the

3 parties want to take a lunch -- a short lunch break, or --

4 MS. COTE: Well, how many more witnesses?

5 HEARING OFFICER SVELAND: Well, it sounds like you have

6 one more witness? Or it --

7 MR. HARVEY: Two.

8 HEARING OFFICER SVELAND: -- looks like -- you have two

9 more witnesses, okay.

10 MR. HARVEY: At this point.

11 HEARING OFFICER SVELAND: So we've got two more

12 witnesses, plus your witness. That's at least three more

13 witnesses, and it's almost 1:00.

14 MS. COTE: So I need to call my doctor.

15 HEARING OFFICER SVELAND: It sounds like you probably do.

16 MR. HARVEY: Well, we can keep going.

17 MS. COTE: Well, there's no way we're going to be done in

18 two hours.

19 HEARING OFFICER SVELAND: I mean, we can keep going. I'm

20 fine with going through, but I just don't see --

21 MS. COTE: We can't be done in two hours and 15 minutes.

22 HEARING OFFICER SVELAND: -- in two hours with three

23 people. It's taken us already three hours with two people.

24 MS. COTE: Right. In which case, I would vote for a lunch

25 break, and I'll reschedule, I guess.

1 HEARING OFFICER SVELAND: Okay. Is half an hour enough,

2 or did you want an hour?

3 MS. COTE: I don't know.

4 MR. HARVEY: I don't know anything about -- is there food

5 in the area?

6 HEARING OFFICER SVELAND: Oh, it's --

7 THE COURT REPORTER There's a deli downstairs.

8 HEARING OFFICER SVELAND: -- really -- yeah, there's a

9 deli downstairs, but then --

10 UNIDENTIFIED SPEAKER: That Italian deli we passed.

11 MR. HARVEY: It smelled pretty good.

12 HEARING OFFICER SVELAND: There's a street over, 16th

13 Street, and it's a pedestrian mall, and it's full of places to

14 eat. Fast food and regular, you know, carts, all that good

15 stuff.

16 MR. HARVEY: I don't know if a half hour's realistic. I

17 don't think we need a full hour to eat.

18 HEARING OFFICER SVELAND: Maybe 45 minutes? Does that

19 sound fair?

20 MS. COTE: Compromise.

21 HEARING OFFICER SVELAND: Okay, 45 minutes it is, so

22 we'll come back at 1:30, about.

23 (Off the record at 12:50 p.m.)

24 HEARING OFFICER SVELAND: Let's go back on the record.

25 Mr Harvey, you can call your next witness.

1 MR. HARVEY: Okay. Abdul.
2 HEARING OFFICER SAVELAND: I need you to raise your right
3 hand.

4 Whereupon,

5 ABDUL RAHIMI
6 having been duly sworn, was called as a witness herein and was
7 examined and testified as follows:

8 HEARING OFFICER SAVELAND: I need you to have a seat.
9 Please, state your name and spell it for the record.

10 THE WITNESS: My name is Abdul Rahimi, A-B-D-U-L R-A-H-I-
11 M-I.

12 MS. COTE: Can you spell again? I'm sorry.

13 THE WITNESS: Abdul, A-B-D-U-L R-A-H-I-M-I.

14 DIRECT EXAMINATION

15 Q BY MR. HARVEY: Good afternoon, Mr. Rahimi.

16 A Good afternoon, sir.

17 Q Are you currently employed by Standard Parking
18 Corporation?

19 A Yes, sir.

20 Q In what capacity are you employed?

21 A Supervisor.

22 Q How long have you been in that position?

23 A Well, I have been working for the company since 2009, but
24 I switched, you know, my position one time, so I just got back
25 the supervisory position like two months ago.

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1 Q What had you been prior to that?

2 A I was a traffic lead, and prior to that I was a
3 supervisor, lane and LPI.

4 Q What kind of supervisor are you presently?

5 A Lane supervisor.

6 Q As a lane supervisor, what are your general duties?

7 A Basically supervision of a cashier team, from six to seven
8 cashiers per shift, basically. I revise their schedule, make
9 necessary changes. If I'm short-staffed, I call for some more
10 people, you know, people who have signed up for overtime, make
11 sure they're included in the schedule, so -- and then after --
12 there are certain actually transactions that a cashier cannot
13 process, they're not authorized to, so as a supervisor I have
14 to go in and help the cashier, you know, process the
15 transaction, and I have to deal with the irate customers or
16 customers who don't have sufficient funds, so on and so forth.

17 Q And in your position as a lane supervisor, do you have the
18 authority to discipline employees?

19 A Yes, I do.

20 Q And have you had to discipline anybody recently?

21 A Not recently, no, but I have before.

22 Q What is the process when you need to discipline somebody?

23 A It depends. For instance, if it is, you know, we issue
24 disciplinary reports for attendance and for other stuff. For
25 instance, if a cashier comes to work without the proper uniform

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1 or sleeps at work, basically refuses the assignment, I mean.

2 Q So what happens in those circumstances?

3 A I write them a disciplinary action. I write them up,
4 basically.

5 Q And do you have to get approval before you can write a
6 disciplinary action?

7 A Not really, no.

8 Q So you have to -- do you have the discretion to issue
9 discipline as you see fit?

10 A Yes.

11 Q What about -- you said you supervise employees. What
12 specifically do you do in terms of supervising the employees?

13 A Well, basically, you know, by supervision I mean that I
14 make sure that everybody is in their assigned area, in their
15 assigned booth. I enforce the dress code policy, make sure
16 that they are properly wearing the uniform and they are in on
17 time in their booth and then, you know, help them if they have
18 customers, you know, and I report, you know, the daily
19 incidents that may take place at my work area to the
20 management, you know, stuff like that.

21 I mean I have a copy of my job description, you know, if
22 you want me to read it I would be willing to.

23 Q Well, I'm looking for it now. I actually introduced --

24 A I also track their attendances, you know, do a monthly
25 team meeting for them, and that would include the customer

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1 service, you know, issues and also some safety stuff to aware
2 them, you know, further about safety issues and basically
3 customer service skills.

4 Q So you said that you conduct monthly trainings?

5 A Yes. It's not -- I wouldn't call it training but, yeah,
6 it's a report that will add to their customer service knowledge
7 and safety, you know, awareness.

8 Q I guess so what does a typical meeting look like? What
9 happens in a typical meeting?

10 A Well, it's basically a report of a couple of pages, you
11 know, providing them, you know, what a good customer service
12 person will act like, you know, or what is basically a good
13 customer service, you know. And also, you know, for instance,
14 it will include some safety matters, you know, in my meeting --
15 a good example would be in case of a tornado what we should do,
16 or in case of a robbery, you know, what steps we can take.
17 Things like that.

18 Q Who sets the agenda for those meetings?

19 A It can be set both by the supervisor and manager. The
20 safety stuff usually comes from the management, but the monthly
21 team meeting we are independent, we can chose a topic, you
22 know, and go ahead and issue it to our cashiers.

23 Q Okay. Now, I understand that there is a system in place
24 for promissory notes. Are you familiar with that process?

25 A Yes, sir, I am.

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1 Q What is that process?

2 A Process is basically for the customers. First, if they

3 don't have sufficient fund, if they don't have enough money to

4 pay for the parking, we issue them a promissory note and they

5 basically have two weeks to mail a check or money order for the

6 City. Sometimes, you know, if -- sometimes you have to get a

7 manager's approval if it is over \$50.

8 Q So for over 50 you need approval, then for under 50?

9 A I don't.

10 Q What if you have a situation where the amount is over \$50

11 and you can't get hold of a manager?

12 A I will process it.

13 Q Do you get in trouble for processing that?

14 A I haven't so far.

15 Q I'm going to have you take a look at what we have

16 introduced earlier as Employer's Exhibit 1. I'd like you to

17 take a look at that. Got it?

18 A Yeah.

19 Q Okay. I'd like you to take a look at that, please.

20 Did you have a chance to review that?

21 A Yeah

22 Q Do you recognize it?

23 A I do.

24 Q What is it?

25 A It's a pretty much my job description, the stuff that I do

1 on daily basis.

2 Q So this accurately reflects what you do on your job?

3 A Yes.

4 Q So I was looking at some of the points. Right at the top

5 line there it says supervises and monitors frontline airport

6 parking employees. Is that true?

7 A That's true.

8 Q And then it talks about supervising and coordinating and

9 scheduling all shift cashiers; do you do that as well?

10 A I do, sir.

11 Q What about the disciplinary aspect of the -- from the

12 third page, it talks about issue progressive discipline steps;

13 do you do that?

14 A I do, sir.

15 Q Do you do cashier work?

16 A In case of need, I do.

17 Q How often does that happen?

18 A Well, with the new system that we have, you know, it

19 hasn't happened. But before, like back in 2009 when I was a

20 supervisor, I did jump in a couple of times.

21 Q You don't do it now?

22 A I don't do it now.

23 MR. HARVEY: All right. I have nothing further.

24 HEARING OFFICER SVELAND: Ms. Cote?

25 MS. COTE: Yes, thank you.

1 CROSS-EXAMINATION

2 Q BY MS. COTE. Good afternoon, Mr. Rahimi.

3 A Good afternoon, ma'am.

4 Q Rahimi.

5 A That's right.

6 Q Do I get it close?

7 A That was right, Rahimi.

8 Q Mr. Rahimi, I'm Linda Cote and I'm the attorney for

9 Teamsters Local Union 455 whose petitioned the National labor

10 Relations Board for recognition of the supervisors as a unit.

11 A Okay.

12 Q Now, I understand you were a supervisor with Standard

13 Parking in 2009.

14 A I was.

15 Q How long were you a supervisor during that period?

16 A For approximately a year.

17 Q And you have now come back to Standard Parking and have

18 been a supervisor for two months, right?

19 A Approximately, yes.

20 Q Approximately. So your total time as a supervisor is

21 about one year and two months, right?

22 A Pretty much, yes.

23 Q Okay. Now, this Company Exhibit 1 that you were looking

24 at there, when is the first time that you saw this document?

25 Is today the first time that you have seen it?

1 A No, I have seen it before.

2 Q When?

3 A I saw it when I was hired, I guess.

4 Q Do you remember seeing this document when you were hired?

5 A I believe I have seen it, you know. It was given to me

6 stating that this was my job description, but I don't exactly

7 recall it, you know, and by whom. But, yes, that's why, you

8 know, I have been doing this stuff, so I know that these are

9 mine.

10 Q Well, the assistant general manager testified earlier

11 today that this description did not include the bullet points

12 that have been inset until he wrote them up for this hearing.

13 A Well, not exactly this one, but I mean the assignments,

14 yes.

15 Q Okay. So this -- exactly this one, is today the first

16 time you've seen this version or was it shown to you earlier?

17 A I had seen it earlier.

18 Q Who showed to it to you earlier?

19 A Manager of mine.

20 Q Who?

21 A Ms. Kelley.

22 Q Did Ms. Kelley show you this in preparation for the

23 hearing today?

24 A No, she gave it to me and said, "Do you do this?" You

25 know, "On daily basis, do you agree to this?" I said yes. And

1 then I was asked by the management if I could testify, you
 2 know, that these are my job descriptions and I agreed to it.
 3 Yeah, I'm basically testifying that this is something that I
 4 do.
 5 Q Okay. So she showed it to you because this hearing was
 6 happening. It wasn't part of your regular job for her to
 7 confer with you about it, right?
 8 A Yeah, to a great extent I think it was because of this
 9 hearing, yeah.
 10 Q Now, how many times have you issued a promissory note over
 11 \$50 without manager approval?
 12 A Maybe one or two times. I can't remember. That was back
 13 in 2009, so --
 14 Q Do you remember that in fact you ever did that without
 15 manager approval?
 16 A I do.
 17 Q You issued it without management approval because there
 18 was no manager available?
 19 A I couldn't get hold of my manager on the radio. The
 20 customers don't have a lot of time to wait, so --
 21 Q Did you note anywhere on a promissory note or in a
 22 report to the company that you were not able to get hold of
 23 your manager?
 24 A Yeah. Mr. Dan Springer was supposed to be working on that
 25 shift as a manager, but I couldn't get hold of him, so I put

1 his call sign, which is Standard 11, just at the bottom of the
 2 promissory note. And then I informed him that this is what
 3 happened.
 4 It didn't only happen on my side, you know, the supervisor
 5 on the other side, I believe it was the east side, he also had
 6 a promissory note and couldn't get hold of him for some reason.
 7 He was tied up with some issue.
 8 Q Okay. Can you tell me, when was the last time that you
 9 delivered discipline to someone without consulting a manager?
 10 A Well, that was back in 2009, and that was -- I think that
 11 was an attendance issue that I had to issue a disciplinary, you
 12 know, write-up.
 13 Q Now, when you issue the discipline on attendance, what is
 14 it that you check in order to decide whether this attendance
 15 thing should be written up? What do you look at?
 16 A The number of their points.
 17 Q And that is on the computer records for the particular
 18 employee?
 19 A Yes. We keep track of their attendances, I mean,
 20 incentives and attendance. And then for any day that they call
 21 in, you know, we add three points for sufficient time, six
 22 points for insufficient time. So we do -- each supervisor has
 23 a team and each supervisor has a record of attendance of his
 24 team members, you know, have it saved in a computer and that's
 25 how I track it.

1 Q Okay. And you track and determine when you say whether
 2 they have called in in enough time. In other words people are
 3 supposed to call in within a certain period of time, right?
 4 A Yes.
 5 Q If they're not going to make it into work?
 6 A Yes.
 7 Q Okay. Or if they're going to be tardy, right?
 8 A Yes.
 9 Q And these are policies that are written out that says
 10 you have to call within this many minutes, right?
 11 A Right.
 12 Q And if you call within this many minutes, you get these
 13 many points. But if you don't call until this many minutes,
 14 you get even more points taken off, right?
 15 A Right, ma'am.
 16 Q Now, it's true, isn't it, that you can't decide to give
 17 somebody five points or three points depending on what you
 18 think; you have to give them the points that the policy says,
 19 right?
 20 A Exactly.
 21 Q Now, when you do an attendance write-up is there a form?
 22 A Yes, there is a form.
 23 Q Okay. And on that form you fill in what? The name of the
 24 employee?
 25 A The name of the employee, the date that she called out,

1 you know, the number of the points, a copy of the attendance is
 2 attached to that report, a copy is given to the employee and
 3 a copy is given to the Human Resources office.
 4 Q Now, a manager is supposed to sign that, isn't it?
 5 A There is a spot for a manager review. Human Resources or
 6 Any operation manager, on-duty manager could do it, but I don't
 7 have to, you know, have their approval for a signed -- write-up
 8 the report. I could write it up and give it to them to review
 9 it, you know, and then give it to the Human Resources or I can
 10 just directly take it and give to the Human Resources.
 11 Q So you're saying with attendance, when you attach the copy
 12 of the that person's attendance record, that you can sign it
 13 and give it to the employee before the manager signs it?
 14 A I have done that before,, yes.
 15 Q So the employee ends up with a copy of that discipline,
 16 does she?
 17 A He or she does, yes.
 18 Q So employees have copies of disciplines without manager
 19 signatures; is that correct?
 20 A That's correct.
 21 Q Okay. And is that true for other disciplines, other than
 22 attendance, where you can issue the attendance before a manager
 23 signs it?
 24 A No, I would get a manager's signature just to inform him
 25 of the disciplinary, you know, report.

1 Q Now, you say that with an attendance discipline you attach
2 copy of their attendance record, right?
3 A Right.
4 Q Are you also required to attach supporting documents to
5 any other discipline that you write up?
6 A It would be helpful if I do.
7 Q Do you know if it's required of you to attach documents
8 that support?
9 A It depends, ma'am. It depends what's the write-up for.
10 Q And it's your position, then, that you can issue a
11 suspension to an employee without getting manager's approval;
12 is that right?
13 A No.
14 Q No? So you do need manager approval for suspensions,
15 don't you?
16 A Exactly, yeah. It depends, you know, like I said, you
17 know, I can make recommendations. Based on investigation, the
18 employee might get suspension.
19 Q Okay. And you make recommendations by filling in the
20 report and attaching documents; isn't that true, sir?
21 A Yeah, in certain cases, yes. Again, it depends.
22 Q What does it depend on?
23 A Well, let's say I'm making a recommendation to suspend an
24 employee for insubordination. I do need to, you know --
25 insubordination or disrespectful behavior, so on and so forth.

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1 I can have a statement, a witness, you know, from my colleague
2 supervisor or another cashier, union member. It doesn't have
3 to be a manager, somebody else, so I can attach to it.
4 Q So you would use witness statement in situations like
5 that, and need to attach those to --
6 A Yeah, just to support my report, yes.
7 Q -- support your report.
8 A Yes.
9 Q Right. Okay. And as a supervisor, do you regularly get
10 e-mails or every so often get e-mails from Human Resources or
11 the company general manager or assistant general managers about
12 things you're supposed to do or not do?
13 A Yes.
14 Q When you got those e-mails, are they addressed to you
15 alone or are they addressed to like all supervisors and
16 managers?
17 A Pretty much all managers and supervisors would be
18 included.
19 Q Now, can you decide for yourself whether or not you're
20 going to work overtime on a certain day or do you need
21 management approval?
22 A I do need -- well, overtime is basically posted, you know,
23 on the board there, you know. If I'm interested I basically
24 sign up for it, you know, and then it's up to the management to
25 decide who's going to get it.

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1 Q What if there's some sort of emergency happens or all of a
2 sudden 10,000 cars come out of the parking garage and are
3 trying to get out at the same time, and you decide that you
4 really think you ought to put in some overtime to help with
5 that; can you just do that that day or do you need to get a
6 manager to approve it?
7 A It depends how many people I need. You know, like I
8 said, I revise the schedule.
9 Q I'm talking about you yourself.
10 A Yes, yes, I can call staff. I can call people, you know,
11 for overtime if I'm busy, if I have more cars, yes.
12 Q I'm not being clear with my question. Here's my question.
13 A Yes.
14 Q Can you decide by yourself whether you are going to work
15 overtime on a particular day?
16 A No.
17 Q That requires management approval, right?
18 A Yes.
19 Q Now, can you tell me what the hour limits are in the
20 contract between Standard Parking and the City of Denver?
21 A I didn't quite get that, ma'am, I'm sorry.
22 Q That's all right. We had testimony before that the
23 contract between Standard Parking and the City of Denver
24 includes hourly limits for the number -- limits on the number
25 of hours people can work. Can you tell me what those are?

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1 A I'm not very certain, but I think, you know, an employee
2 can work up to 16 hours per day.
3 Q I meant the total of number of hours that can be worked
4 out there.
5 A In a day?
6 Q In a day or a week or a year.
7 A By one employee? Well, I don't honestly don't know that.
8 Q Okay. Who is it that decides whether or not overtime will
9 be worked on particular day?
10 A Higher management.
11 Q Managers. In fact they put together a posting, right,
12 that people can volunteer to work overtime?
13 A Yes.
14 Q Okay. Now, when you write someone up for attendance, like
15 you were talking before, because they're tardy or --
16 A Right.
17 Q -- can you decide -- if a person has so many points, can
18 you decide whether or not you're going to write that person up?
19 Or are you supposed to write them up if they have hit certain
20 points?
21 A I'm supposed to.
22 MS. COTE: Nothing else. Thank you, very much, sir.
23 THE WITNESS: Thank you.
24 HEARING OFFICER SAVELAND: Anything from the Employer?
25 MR. HARVEY: Nothing.

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1 HEARING OFFICER SAVELAND: You are excused.
 2 Are you going to call another witness, Mr. Harvey?
 3 MR. HARVEY: Yes, I am.
 4 HEARING OFFICER SAVELAND: Okay.
 5 Whereupon,
 6 JOHN ECKART
 7 having been first duly sworn, was called as a witness herein
 8 and was examined and testified as follows:
 9 HEARING OFFICER SAVELAND: Go ahead and have a seat.
 10 Please, state your name and spell it for the record.
 11 THE WITNESS: John Eckart. Last name is spelled E-C-K-A-
 12 R-T.
 13 DIRECT EXAMINATION
 14 Q BY MR. HARVEY: Good afternoon, Mr. Eckart. Are you
 15 presently employed by Standard Parking Corporation?
 16 A Yes.
 17 Q In what capacity are you employed?
 18 A I'm a traffic supervisor.
 19 Q And how long have you been in that position?
 20 A It will be going on five years pretty soon.
 21 Q I'd like to have you take a look at what we've labeled as
 22 Employer's Exhibit 2.
 23 A Uh-huh.
 24 Q Did you read it?
 25 A Yes, sir.

1 Q Do you recognize this?
 2 A Yes.
 3 Q What is it?
 4 A It's a long time ago, but I remember when I was hired they
 5 did give me a job description.
 6 Q Is this job description what you received?
 7 A It's going on five years.
 8 Q I mean, more importantly --
 9 A I mean it, yes, it seems to be very close to the one
 10 that I'm remembering.
 11 Q Does it accurately reflect what you do on your job?
 12 A Oh, yes.
 13 Q Looking at some specific components of this job
 14 description, it says in the first sentence direct the duties
 15 and work assignment of all traffic agents assigned to that
 16 shift. What does that mean?
 17 A Well, the company has given me resources, trucks,
 18 personnel, and I basically do that portion of the contract, as
 19 far as the parking areas that Standard Parking has with the
 20 City. I'm it.
 21 Q So in terms of directing duties, what specifically do you
 22 do in that capacity?
 23 A Assigning work assignments daily. I make up the schedule.
 24 It's a rotating schedule. That was to satisfy a Union demand,
 25 I believe, that we try and rotate areas, so I make sure I

1 rotate areas as I should And then my people are well trained.
 2 They know when I assign them a certain area what their duties
 3 are, and when they're -- I can further explain that when a
 4 person comes into traffic and is trained, as part of their
 5 training this area you do this, that area you do this.
 6 Q Who does that training?
 7 A It will be a traffic agent, one of our senior traffic
 8 agents that's approved by the training department.
 9 Q When you talked about assigning these duties to employees,
 10 do you do that independently or does a manager tell you?
 11 A No, independently.
 12 Q Pardon me?
 13 A I'm very independent.
 14 Q Looking at your job summary, it talks about -- you just
 15 mentioned the work assignments, but discipline of all traffic
 16 personnel assigned to your shift. Do you --
 17 A Yes.
 18 Q Do you discipline employees?
 19 A Yes.
 20 Q And do you have discretion in issuing discipline?
 21 A Yes.
 22 Q Do you have to get approval of a manager to issuing
 23 discipline?
 24 A That's more of a courtesy thing so that they know what's
 25 going on. Usually I prefer working with HR. I'll let the

1 manager know what I'm doing and proceed.
 2 Q I'm going to introduce to you what I'm labeling as
 3 Employer's Exhibit 12.
 4 **(Employer Exhibit Number 12 Marked for Identification)**
 5 Q BY MR. HARVEY: I'd like you to take a look at that
 6 document, please.
 7 A Uh-huh.
 8 Q Do you recognize that document?
 9 A Oh, yes.
 10 Q What is that it?
 11 A It's a disciplinary warning for hooking up the cables
 12 incorrectly, basically, blowing up the customer's battery in
 13 their automobile.
 14 Q Did you have to get authorization to issue that
 15 discipline?
 16 A No, no, no. The only thing I check with -- and this is
 17 mainly because of the agreements or contracts we have with the
 18 Union, there are certain steps we follow on these disciplinary
 19 actions. For instance, in this case I didn't need to check --
 20 well, no, I did, right. She was formerly a cashier. I did
 21 check with HR to make sure that this individual didn't have any
 22 previous written warnings. In other words, I checked to give
 23 the appropriate level of discipline, and I checked with HR on
 24 that. No previous writtens, so it would be her first written
 25 warning.

1 I might add that it says when Standard 9 and myself
2 reported, that's because I dragged the manager with me, because
3 there was damage to a customer vehicle.
4 Q Okay.
5 A And, you know, just saved time bringing him along.
6 MR. HARVEY: I'd like to move Exhibit 12 into evidence.
7 HEARING OFFICER SAVELAND: Ms. Cote, any objection?
8 MS. COTE: No, ma'am.
9 HEARING OFFICER SAVELAND: Okay. Admitted.
10 **(Employer Exhibit Number 12 Received into Evidence)**
11 Q BY MR. HARVEY: Now I'm going to hand you what I have
12 labeled Employer's Exhibit 13. I'd like you to take a look at
13 that document, please.
14 A Yes, sir.
15 Q Do you recognize that document?
16 A Yes, I do.
17 Q What is it?
18 A It's a disciplinary action for failure to wear her safety
19 vest when she was walking about at entrance -- entrance gates.
20 Q What discipline did you impose?
21 A As it reads here, third and final warning, and I believe
22 that was a violation of safety procedures or standard operating
23 procedures, as we call them.
24 Q Did you just issue her a written warning?
25 A No, it called for -- it called for a suspension of one to

1 three days, I believe.
2 Q Did you consult with a manager prior to imposing this?
3 A In this case I did, because I learned in working with
4 these procedures that when it gets up to the suspension actions
5 you have to be very careful in following the proper procedures.
6 Otherwise, if there's a little mistake in the paperwork or
7 you've given the wrong level, that whole action is can become
8 null and void.
9 Q Okay. So you were -- it sounds to me like you sought
10 procedurally advice.
11 A That's correct.
12 Q Did you need authorization to impose the suspension?
13 A No, no, not at all. It's cut and dried.
14 MR. HARVEY: I'd like to move Exhibit 13 into evidence,
15 please.
16 HEARING OFFICER SAVELAND: Objections?
17 MS. COTE: No objection.
18 HEARING OFFICER SAVELAND: So admitted.
19 **(Employer Exhibit Number 13 Received into Evidence)**
20 Q BY MR. HARVEY: And then in terms of your duties as a
21 supervisor, do you hold team meetings?
22 A Yes.
23 Q How often?
24 A Once a month.
25 Q What do those meetings entail?

1 A Basically what has occurred during the month that we, I
2 believe, that I need to address to my team members. For
3 instance, if there's any construction going on we'll discuss
4 that. If it's in the wintertime, I'll tell them to make sure
5 you have ballast in your trucks. It will change season to
6 season and depending on what's going on at the airport.
7 I'll occasionally get an e-mail from upper management that
8 says the City has asked us to address this or that, you know,
9 to discuss it with my team members. I'll get input from
10 different levels or even my team members will come up and say,
11 you know, we need to talk about this.
12 Q So you get input from various sources and --
13 A Oh, yes.
14 Q -- you set the agenda?
15 A Oh, yes.
16 Q Who sets the agenda for those meetings?
17 A I do. I do.
18 Q Now, if you have employees that you are supervising who
19 are not performing properly, do you take any action in that
20 context?
21 A Yes, depending on the nature of what they're doing. I
22 mean, what we're talking about, it depends. That's up to me,
23 you know, if it's a minor thing I'll just draw them aside and
24 say, hey, buddy, you know, you need to improve on this or the
25 next time I will take, you know, disciplinary action.

1 Q Do you --
2 A And other times I'll check with HR to see exactly the
3 proper way to write it up. I mean, there's -- you can get into
4 some of these touchy areas. I don't know how to explain that.
5 Q The short question is: Do you need authorization from HR?
6 A No, no, no. That's up to me, you know. That's up to me.
7 As I said, if it's a very serious issue that may lead to a
8 person's firing or suspension, in my mind it's proper to check
9 with HR and make sure I'm following the proper course.
10 Q Sorry to jump around, but in looking back at Employer
11 Exhibit 2 --
12 A That was the Howard write-up.
13 Q The job description.
14 A You can go ahead and ask your question. That's okay.
15 Q Looking down at the education and experience, it talks
16 about the ability to direct or manage a team with little or no
17 management on site. What does that mean?
18 A Oh, I'm perfectly fine if management is not there. I
19 really don't need them, to tell you the truth. The only time I
20 need them is when the contract calls for it, you know, and
21 you're supposed to let your manager know if this happens or
22 that happens, because they need to put in their daily report,
23 something of that nature. The City requires management
24 involvement along with the City employee like on accidents,
25 that sort of thing. But, no, I know what the City requires for

1 the parking areas, what I supervise, and I run it.
 2 Q So you're saying operationally --
 3 A Operationally, yeah. The City says, okay, we'd like to
 4 close these lots, like the garages, with 100 spaces. And the
 5 economy is with 50. Well, it's up to me to close it the City
 6 way.
 7 Q Do you need direction from anybody to do that?
 8 A No. No, that's my call. Likewise it's normally on C
 9 Shift when it opens, and it's a judgment call. I weigh factors
 10 such as the time of day, the historical -- history of that day
 11 as far as number of people who are -- I have coming into the
 12 airport, so that I don't close it too early or close it too
 13 late. And that's all up to me.
 14 MR. HARVEY: I have nothing further.
 15 HEARING OFFICER SAVELAND: Ms. Cote?
 16 MS. COTE: May I have a moment, please?
 17 HEARING OFFICER SAVELAND: Sure.
 18 CROSS-EXAMINATION
 19 Q BY MS. COTE: Good afternoon, Mr. Eckart.
 20 A Good afternoon.
 21 Q My name is Linda Cote, sir. I'd like to follow up with a
 22 few questions based on your testimony --
 23 A Sure.
 24 Q -- for the company. Now, you mentioned that you know the
 25 City requires parking areas that you supervise, and what they

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1 want, when they want them closed and stuff.
 2 A Uh-huh.
 3 Q And you said that it's 100 spaces, 50 spaces when it's
 4 economy and 100 when it's --
 5 A Yeah, that's --
 6 Q What it's what?
 7 A That's a general thing. That's if the traffic isn't --
 8 sometimes you just get deluged with customers. You get what we
 9 call a rush coming in. And I make may call to have the area
 10 closed sooner because of that. You after all, it's a service
 11 it's a customer service business and we try to do our best to
 12 not inconvenience the customers.
 13 Q Okay. So you're talking -- you said 100 spaces in -- and
 14 I didn't catch where it was.
 15 A In a garage.
 16 Q In the garage.
 17 A But that's just for eat garage. West garage is a
 18 different story. I close it around 150, give or take
 19 Q Is that part of the City requirements also then?
 20 A No, that's a general guideline from the City.
 21 Q This is a general guideline?
 22 A I believe that came from Dorothy Harris. It's a guideline
 23 that she passed on sometimes through the parking agents.
 24 Parking agent will tell me Dorothy said she wanted to close it,
 25 have it done at such and such a level. I mean I'll pass that

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1 on to management.
 2 Q Now, you also mentioned in terms of writing people up for
 3 discipline that you decide whether to write them up, so I
 4 wanted to -- or that's what my notes show.
 5 A Uh-huh.
 6 Q Is that your testimony?
 7 A It is.
 8 Q Okay. So I wanted to clarify that. Now, if an employee
 9 hits an attendance of 35 points, do you decide whether or not
 10 to write them up?
 11 A No. I believe that's an agreement with the Union that
 12 that's something that the Standard Parking agreed to with the
 13 Union, that that would be a policy for the company, you know,
 14 and agreed to by the Union --
 15 Q Okay.
 16 A -- that absent so many times they it would be so many
 17 points, and it would be such and such a disciplinary step.
 18 Q Okay. So you don't get to decide whether if Person A has
 19 30 points and Person B has 30 points, you're going to write up
 20 A but not write up B; you have to write them up once they hit
 21 the certain points, don't you?
 22 A That's correct. That's correct. And same would be --
 23 it's part of the Union agreement. I would say the company
 24 would have to write them up.
 25 Q So when you said that you decide whether to write them up,

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1 you're not making the decision whether or not they need to be
 2 written up, you decide --
 3 A Oh, if you're speaking of -- there's a different between
 4 attendance and non-attendance write-ups.
 5 Q Okay. Attendance versus non-attendance?
 6 A Uh-huh. Although they are both, you know, an agreement
 7 between the Union and Standard Parking, you know, the contract
 8 agreement on how both should be handled.
 9 Q All right. So if you see a person arriving at work not in
 10 their proper uniform --
 11 A Uh-huh.
 12 Q -- can you decide for Person A I'm going to write that
 13 person up, but Person B not in a proper uniform I'm not going
 14 to write them up?
 15 A Yeah, depending on the circumstances. That's my call.
 16 Q Depending on the circumstances?
 17 A Sure.
 18 Q So Person A you like and Person B you don't? So you
 19 decide to write up --
 20 A No, ma'am.
 21 Q -- Person B?
 22 A No, ma'am, I didn't say that. Did I?
 23 Q Well, that's what I'm asking.
 24 A No, that's not true.
 25 Q So what circumstances are dependent?

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1 A Okay. For instance, they forgot their safety vest. Okay?
 2 If they're out of uniform, they're supposed to get sent home.
 3 Okay? If I know I can get a safety vest for that person, I'm
 4 going to get a safety vest for them so they can work. If
 5 they're missing shoes and I can't find any shoes, I'm sending
 6 them home, you know. I try and use a little common sense.
 7 Q Okay.
 8 A But it is my call.
 9 Q Well, the way I understand it, and please correct me if
 10 I'm wrong, given your testimony, you have to write them up if
 11 they're not in the proper uniform, unless you can find the
 12 parts to make their uniform proper; isn't that true?
 13 A That's true. As I said, it's a judgment call on my part.
 14 You know, if I'm -- my duties are calling me away to where I
 15 don't have time, other than to -- well, no, I can't say that
 16 because I would take the time. No, it's not something I have
 17 to do. Let me put it that way.
 18 Q Make them compliant by finding the parts, is what you
 19 mean, right?
 20 A Yeah.
 21 Q Okay. Yes, I understand. And you're extending --
 22 A I try to be a good guy.
 23 Q Right. But it is your responsibility to make sure the
 24 uniform is compliant.
 25 A Correct.

1 Q And if it's not, you send them home?
 2 A Yes.
 3 Q And that's company policy, right?
 4 A Yes.
 5 Q So if you can patchwork quilt a full uniform together,
 6 they get to stay. But if not, you send them home.
 7 A I'm not going to do any sewing, no.
 8 Q If it doesn't require sewing.
 9 A If I can, ma'am, yeah.
 10 Q Okay. Now, you said that you set the agenda for the
 11 monthly meetings. But it is true, is it not, that managers can
 12 and do instruct you for things to cover during your meetings?
 13 A They have their input, uh-huh.
 14 Q And it is true, is it not, that you are required to
 15 include whatever the managers tell you to include in the
 16 meetings, right? You can't ignore them.
 17 A I have ignored it in the past, because it wasn't relevant.
 18 Q And if that was known by higher management that could be a
 19 matter of discipline for you; isn't that true?
 20 A Well, depends on if I could sell my point or not.
 21 Q Right. But you could be subjecting yourself to possible
 22 discipline, right?
 23 A I would not do that unless I could sell my point, I'm
 24 pretty sure.
 25 Q You wouldn't do that unless you were pretty sure you could

1 sell your point?
 2 A Uh-huh.
 3 Q But you might be wrong, right?
 4 A I could be.
 5 Q You are undertaking a risk if you can't sell your point to
 6 management, right?
 7 A I think I have a good enough track record that that
 8 wouldn't be the case.
 9 Q Well, that wasn't my question.
 10 A Okay. I misunderstood you.
 11 Q You are undertaking a risk, are you not, when you decide
 12 not to cover what they tell you?
 13 A I guess I would be.
 14 Q Okay. Now, as to Company 13, Exhibit 13, sir.
 15 A Okay.
 16 Q I note on Company 13 in the description in the box there
 17 at the top towards the top of the page, sir --
 18 A Uh-huh.
 19 Q -- is that your draft of the description of events? I
 20 Mean, are you the one who inputted that on Thursday, 15 March
 21 2012?
 22 A Yes. That's my description.
 23 Q Right. That's your writing, correct? I mean your typing.
 24 A Yes.
 25 Q It's not the employee filling that out or a manager

1 filling that out.
 2 A No, I hope not.
 3 Q But you that's you, right?
 4 A Yes, it is.
 5 Q Okay. Now, I note in the description it says you were
 6 reported by City personnel and served on camera walking in
 7 traffic without your safety vest. So is it correct to
 8 understand that someone from -- someone with the City reported
 9 to you that this individual did not have a safety vest?
 10 A I understood it was called in to my dispatcher.
 11 Q Okay. And your dispatcher notified you, correct?
 12 A Well, actually, I walked into my dispatcher's office and
 13 the A Shift manager and dispatcher were watching the camera,
 14 observing this person walking around without their safety vest.
 15 Q So the A Shift manager --
 16 A Uh-huh.
 17 Q -- was watching it too?
 18 A Uh-huh.
 19 HEARING OFFICER SAVELAND: Is that a yes?
 20 THE WITNESS: Yes.
 21 HEARING OFFICER SAVELAND: Thank you.
 22 Q BY MS. COTE: Is that the assistant general manager or is
 23 that --
 24 A No, it's the duty manager on duty.
 25 Q So that's an operations manager, a duty manager, that's

1 who you mean?
 2 A Yes.
 3 Q Now, this operations manager has authority over you; isn't
 4 that correct?
 5 A That's correct.
 6 Q And they were watching the videotape, sir?
 7 A No, it was live -- it's a live camera system.
 8 Q Oh, I see.
 9 A Although it does have video, I mean it does have recording
 10 capability.
 11 Q But in that particular moment it was live?
 12 A It was live.
 13 Q Okay. And did the operations manager talk to you about
 14 writing this person up?
 15 A Yes.
 16 Q And were you instructed to write them up or did you say I
 17 don't feel them writing them up or --
 18 A No, he requested that I write this person up for the
 19 safety violation.
 20 Q Okay. Now, on Company Exhibit 12, sir, if you could refer
 21 to that, that's a disciplinary warning for Dadale Abdi. I
 22 don't know if that's a Mr. or Ms.
 23 A It's a Miss, a Mrs.
 24 Q I note -- again, is it fair to understand that what is
 25 inside that box was your writing of the incident?

1 A That's correct, ma'am.
 2 Q And the last sentence there says, "This is a failure to
 3 follow company directions policy as outlined in the jumpstart
 4 procedures and the traffic agent procedure manual."
 5 A Yes, ma'am.
 6 Q Okay. Now, did you do an actual inspection then of the
 7 Customer's -- or, yeah, customer's battery?
 8 A It was smoking.
 9 Q Okay. So that's a yes? You actually --
 10 A That's a yes.
 11 Q And did the -- and this is a traffic -- this is a traffic
 12 person, Ms. Abdi?
 13 A Yes, she is.
 14 Q Cashier?
 15 A No, no, traffic agent.
 16 Q Traffic agent.
 17 A Uh-huh.
 18 Q Okay. So did the traffic agent call you over to the
 19 situation?
 20 A Yes. Dadale is the first name. Dadale notified us of the
 21 situation.
 22 Q Okay. And what, if anything, did you do once you were
 23 called over? You said you saw it was smoking.
 24 A Uh-huh. Well, this immediately jumped about the managers
 25 arena because damage had been done to a customer's vehicle. So

1 I informed him that I would do the write-up on the traffic
 2 agent, so he could concentrate on what he had to do with making
 3 a report, that sort of thing. And then we had to call the City
 4 parking agent over because that becomes an issue with the City.
 5 Q Okay. So you were called over then by the traffic agent?
 6 A Correct.
 7 Q And then once you saw this situation and saw the smoke,
 8 you called the manager?
 9 A No, no, when the traffic agent basically -- when she
 10 phoned in to our dispatcher, which is normal procedure, she
 11 told the dispatcher she had hooked the cables up wrong and
 12 smoked the battery. I knew at that time to get a manager
 13 immediately involved, because there was damage done to a
 14 customer's vehicle. So basically I told them let's go.
 15 Q Okay. So this was an operations manager?
 16 A Yes, ma'am.
 17 Q So did you and the operations manager then to go to scene
 18 together?
 19 A That's correct. That's correct.
 20 Q And you volunteered to go ahead and write up the warning
 21 while he concentrated on the customer?
 22 A Yes. That's my job.
 23 Q And do you know whether or not this particular
 24 disciplinary warning issued to Ms. Abdi was ever signed by a
 25 manager? This copy doesn't show a signature.

1 A No. It should have been. It should have been.
 2 Q Uh-huh.
 3 A I don't see the review initials.
 4 Q Okay. Well, it could be that there was another copy.
 5 A That's a possibility, ma'am.
 6 Q Correct?
 7 A Yeah.
 8 Q And is that equally true for Company 13? There's no
 9 manager signature on that one either.
 10 A No, there is not.
 11 Q And there should have been there too, right?
 12 A There should be. That's our procedure, that it's reviewed
 13 for any necessary paperwork or often a manager will go to HR
 14 and discuss, you know, particularly the severely -- the severe
 15 cases of disciplinary action, a manager may, as part of the
 16 review, take it to HR.
 17 Q Uh-huh.
 18 A And make sure that all necessary procedures and agreements
 19 with the Union are being followed correctly. I myself usually
 20 just take it to HR myself. I write them up and make sure the
 21 proper step is followed and all that. But that's -- often
 22 that's a difference of working days. Some supervisors worked
 23 nights.
 24 MS. COTE: Okay. If I have just a moment, Your Honor?
 25 HEARING OFFICER SAEVLAN: Sure.

1 Q BY MS. COTE: One other point, sir. And correct me again
 2 if my notes are wrong, but I understood your testimony about
 3 scheduling was that you rotate areas. Correct?
 4 A That's correct
 5 Q Assigning people to different areas where to work?
 6 A Uh-huh.
 7 Q And that's required by the collective bargaining
 8 agreement, correct?
 9 A That's my understanding.
 10 Q And the rotating schedule is specified in the collective
 11 bargaining agreement?
 12 A That's my understanding, yes. I believe the phrase is if
 13 at all possible or operational, unless operational necessities
 14 dictate otherwise, that we make every effort to equal the
 15 workload.
 16 Q Uh-huh.
 17 A And that's the reason for different areas.
 18 Q So as prescribed in the collective bargaining agreement,
 19 you make people-- assignments on a rotating basis?
 20 A Correct.
 21 MS. COTE: Okay. I have nothing further. Thank you, very
 22 much
 23 THE WITNESS: Thank you, ma'am.
 24 HEARING OFFICER SAVELAND: Any more questions for this
 25 witness?

1 MR. HARVEY: I've got a couple.
 2 HEARING OFFICER SAVELAND: Okay.
 3 **REDIRECT EXAMINATION**
 4 Q BY MR. HARVEY: You just talked about you believe that the
 5 rotation within the collective bargaining agreement -- do you
 6 know that?
 7 A I read it.
 8 Q So you have not seen that provision?
 9 A But there was -- I mean it's, no, I haven't read the
 10 actual contract.
 11 Q So you don't know if it's in the collective bargaining
 12 agreement?
 13 A I wouldn't bet my house on it, but I'd bet a maybe a
 14 hundred or two.
 15 Q Looking back at Employer Exhibit 12, you can see here that
 16 you did not have a manager review signature. Do you know if
 17 this -- I see your signature is on there.
 18 A Right.
 19 Q Was this written warning issued to the employee?
 20 A Pardon?
 21 Q Was this written warning issued to the employee?
 22 A Yes.
 23 Q So even though it wasn't reviewed by the manager, it was
 24 issued?
 25 MS. COTE: Objection, that mischaracterizes his testimony

1 and it also characterizes facts not in evidence. The facts not
 2 in evidence are whether or not this was reviewed. There simply
 3 is no signature here. You have presumed that there was no
 4 review.
 5 Q BY MR. HARVEY: Did a manager sign this?
 6 A Yes.
 7 Q Manager signed this?
 8 A Well, not this. But before this got through HR, a manager
 9 would have to review it or HR wouldn't accept it.
 10 Q But this document that we're looking at was not signed by
 11 a manager, correct?
 12 A Correct.
 13 Q Did you issue this to the employee?
 14 A This may have been her courtesy copy. It may not have. I
 15 swore that we gave her -- because what I usually do is I go to
 16 -- I make sure the employee gets a copy, HR gets a copy, and
 17 the Union gets a copy. Sometimes I give two copies to HR, one
 18 for her, one for the Union.
 19 Q So what I'm asking you is: Do you know if this was issued
 20 to the employee?
 21 A As this stands here? I'm not sure.
 22 HEARING OFFICER SAVELAND: Do you recall if you actually
 23 issued that warning, like not maybe not that piece of paper,
 24 necessarily, but you actually did issue a warning? Do you
 25 recall doing that?

1 THE WITNESS. Yes. Well, I did issue a warning and I did
 2 -- and I'm positive it was reviewed -- initialed by a manager.
 3 This may have been a preliminary copy.
 4 Q BY MR. HARVEY: Okay.
 5 A I'm really guessing on that.
 6 Q All right. But just so we have it clear for the record,
 7 was the employee issued a written warning?
 8 A Yes.
 9 Q Okay. Now looking at Employer Exhibit 13, I notice also
 10 that there is no signature next to reviewed by manager. Do you
 11 know if this employee, Lois Howard, was suspended for two days?
 12 A I believe she was.
 13 Q Based on this incident?
 14 A Yes.
 15 MR. HARVEY: Okay. I've got nothing further.
 16 HEARING OFFICER SAVELAND: Ms. Cote?
 17 **RECROSS-EXAMINATION**
 18 Q BY MS. COTE: Well, as a follow up to your most recent
 19 testimony, sir, as to Exhibit 13 you were asked if you know if
 20 she was suspended. You said you believe she was. Do you know
 21 in fact if this became a part of her permanent record?
 22 A I believe it did, ma'am. You know, I'm not positive.
 23 Q In fact, it would be up to HR to decide to do this or not,
 24 wouldn't it?
 25 A When it gets up to those levels, they do have input. As I

1 Said, it could have been the third and final written warning.
2 I usually ask for one to three days, you know, depending on the
3 severity of the violation. You know, I can go to HR and say I
4 want three days, period. Or I can go to HR and say let's cut a
5 little break here. Can we just give them one? This looks like
6 a middle of the road. As I said, I have learned to treat these
7 very carefully and work with HR so that all agreements are met.

8 MS. COTE: I have nothing else. Thank you.

9 HEARING OFFICER SAVELAND: Done with that witness? Okay.

10 Do you have any more witnesses, Mr. Harvey?

11 MR. HARVEY: No.

12 HEARING OFFICER SAVELAND: Okay. I don't need any copies.

13 Do you need any copies of any of the exhibits? Or are you
14 okay?

15 MS. COTE: Just yours before we leave.

16 HEARING OFFICER SAVELAND: Okay, I'll get those to you.

17 MR. HARVEY: If there's another witness being called, I
18 may need additional.

19 HEARING OFFICER SAVELAND: Oh, I see. You're saying you
20 don't have copies.

21 MR. HARVEY: I don't know where they went. They were

22 sitting here before.

23 MS. COTE: You don't have copies of what, 12 and 13?

24 MR. HARVEY: I have that. Are you presenting a witness?

25 MS. COTE: Yes. Is it my turn?

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1 MR. HARVEY: I'm done. If your witness is who I believe
2 it is, I need to get additional copies of a document, because I
3 don't know what happened to my copies here.

4 HEARING OFFICER SAVELAND: Okay.

5 MS. COTE: Can we take a little break to do that then?

6 HEARING OFFICER SAVELAND: Sure, we'll take a minute.

7 (Off the record at 2:50 p.m.)

8 HEARING OFFICER SAVELAND: We can go back on the record.

9 Okay. Since the company has now rested, Petitioner, do you
10 wish to present any witnesses?

11 MS. COTE: Yes.

12 HEARING OFFICER SAVELAND: Okay. You may call your first
13 witness.

14 MS. COTE: I call Mr. Asfaw -- I'm going to get the
15 pronunciation wrong -- Kuture.

16 MR. KUTURE: Kuture.

17 HEARING OFFICER SAVELAND: Okay. I just need you to raise
18 your right hand.

19 Whereupon,

ASFAW KUTURE

21 having been duly sworn, was called as a witness herein and was
22 examined and testified as follows:

23 HEARING OFFICER SAVELAND: Okay. Go ahead and have a seat.

24 Please state your name and spell it for the record.

25 THE WITNESS: My name is Asfaw, A-S-F-A-W, last name

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1 Kuture, K-U-T-U-R-E.

DIRECT EXAMINATION

3 Q BY MS. COTE Mr. Kuture, where are you employed?

4 A Standard Parking, Denver International Airport.

5 Q And how long have you worked at Standard Parking?

6 A Standard Parking took over in October of 2008. I was
7 employed by Ampco System Parking in March 2007. So I've been
8 in that position, that workplace for five years and four
9 months.

10 Q And what is your present position?

11 A I'm a lane supervisor.

12 Q And have you worked as any other kind of supervisor since
13 you've been out there?

14 A Yes. Recently I got a co-training in the traffic
15 department on (sic) December of 2011. And I've been filling
16 some open spots in the traffic department.

17 Q As a supervisor?

18 A Yes, as a traffic supervisor.

19 Q And have you -- since with Standard Parking or its
20 predecessor company -- corporation, Ampco, have you had any
21 other position other than a position called supervisor?

22 A No. I was hired as a supervisor, so I never had any other
23 position other than the -- the two positions that I just
24 mentioned.

25 Q Okay. All right. Now, Mr. Kuture, I'd like you to refer

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1 to Company Exhibit 1.

2 A What page is that?

3 THE COURT REPORTER: Uh-huh.

4 MS. COTE: No.

5 THE WITNESS: It's the fourth page, I guess.

6 Q BY MS. COTE: Now, when you were hired, did you receive a
7 copy of Company Exhibit 1?

8 A No. I don't remember getting this. But over the years,
9 the years that I've worked there I've come to know what my
10 responsibilities are, you know, what's required of me every day
11 that I am on the clock.

12 Q Okay. And do you know -- now, we've already had testimony
13 from one of the assistant general managers today that the
14 bullet points that are indented were things that he added for
15 this hearing. Were you here when he testified to that?

16 A I was here.

17 Q Okay. And so looking then at just the bullet points that
18 come out furthest to the left, do you remember ever being given
19 a copy of this job description?

20 A No, ma'am.

21 Q Now, there has been testimony regarding supervisor
22 responsibilities out there. Can you describe as a supervisor
23 what your authority is for discipline?

24 A I don't have exclusive authority to discipline anybody as
25 a supervisor. What I do, if notice an employee violates a

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1 company policy, I would document that if I have to talk to that
2 employee for -- for a minor infraction. And then I go over
3 with that and report what I did with that employee to the
4 operation manager.

5 But if it is a major infraction like, you know, somebody
6 fighting, you know, in the break room or have a dispute with a
7 customer and, you know, they say stuff that they don't -- they
8 don't have to say or sleeping in the work area, talking on the
9 phone, a whole list of infractions, then we -- we -- you know,
10 we check every day to make sure they are, you know, in
11 compliance with -- then, depending on the level, I would
12 document that, get back to the manager, report that issue. If
13 they want, they would say, "Okay. We need to write this
14 employee up because this is a serious infraction," or, "We
15 have another report of this employee that, you know, he did the
16 same infraction before, you know, passed by verbal warning with
17 another supervisor." They have that record. So they will
18 either prepare the write-up or they will instruct me to prepare
19 the write-up and I will submit that back to them, they will
20 review it, sign it. By signing, that means they are approving
21 that write-up. So they will either ask me to issue it; nine
22 out of ten, they will tell me to send that employee to the
23 office, pull them out of their booths, you know, their work --
24 work area, send them there and they will, you know, issue it.

25 The only --

1 Q Well, let -- let me back up a little bit. Let's get some
2 clarification, if I could, here.

3 A Okay.

4 Q So in a more serious infraction, if I understand, like you
5 mentioned, fighting, sleeping on the job, that type of thing --

6 A No stealing or breaking company property intentional, you
7 know.

8 Q Stealing, breaking.

9 A Insubordination.

10 Q That you do -- you say you document that. How do you
11 document that, sir?

12 A Let's say I seen somebody sleeping in the booth -- this
13 happens a lot of times -- if I just go there and then, "Oh I
14 saw him sleeping," so I go back to my computer and I say, "X I
15 seen you sleeping in your booth and here's a write-up Sign."
16 If they don't sign it; they will deny it. They will say, "No,
17 I didn't sleep." So I would have somebody go with me hoping
18 they are still sleeping. If they're awake, then I'm screwed.
19 I can't just, you know -- I just say, "I saw him sleeping," and
20 by the time I come back with a witness and he's awake," so
21 that's it. I will talk to them though. "I saw you. But
22 because I don't have a witness, I can't, you know" -- "you
23 know, push this further. But don't sleep in your work area
24 because this is against the company policy."

25 Q All right. So if you're in a position to have a witness

1 with you and the infraction is still going on, then that --

2 A Then --

3 Q -- justifies a write-up?

4 A Not necessarily. What I would do, get a statement from my
5 witness, talk to the employee, send that report to the manager,
6 the operation's manager, whoever might be on the shift, then
7 it's up to them, you know, whether or not to go -- you know, to
8 write that person up or to say, you know, "Call him to advise
9 him not to sleep." You know, whatever they want to decide;
10 it's up to them. I don't object it, I don't push them, I don't
11 recommend that that person needs to be disciplined.

12 Q All right.

13 A My job is to report. My job is educate those employees of
14 the policies and the procedures.

15 Q So when you talk about documenting something that you
16 observe, like sleeping or stealing, and assuming you have a
17 witness, where does it get documented? In -- on your computer
18 for that particular employee, is there a form? Is it put on a
19 disciplinary warning form? Where does it go?

20 A No. We -- we don't have a specific form for documenting
21 issues.

22 Q Okay.

23 A We can e-mail managers that that happened and --

24 Q Okay.

25 A -- witness X was with me when this happened. Or write it

1 down on a piece of paper and have that person sign or have that
2 person give you another statement and then you put it together
3 and -- and send it to a manager or you write an e-mail. So you
4 can communicate those in a different way.

5 Q All right. But the --

6 A We don't have a specific software or form that -- to
7 document issues that's happening in the -- other than workmen's
8 comp. You know, if somebody is injured on the job, then
9 there's a form that we have to fill in.

10 Q Okay So you document it through e-mail or writing up,
11 attach a witness statement, if there is any such things, and it
12 gets sent to management?

13 A Yes. The manager, the operation manager --

14 Q Operation's manager?

15 A -- on duty. Yeah.

16 Q And that manager either instructs you to do discipline or
17 not, is that correct?

18 A Yes. I believe they would go to the AGM, the assistant
19 general manager, the human resource, and probably they come up
20 with, you know, a level. They check whether that employee has
21 a previous infraction of the same kind or different and then

22 they would say, "Okay. X, you know, had the same infraction
23 before. We gave him a first warning before, so now it's gonna
24 be the second warning." And either, "Go ahead and prepare the
25 write-ups and, you know, back to me, I'll sign it and HR will

1 review it and they sign it and then send it back to me." So
 2 even though -- the write-up has a witness, a manager, and
 3 that's an approval.
 4 Q Okay. So you're saying that if -- once you make this
 5 report to management, management often fills out these
 6 progressive disciplinary warnings?
 7 A Oh, yeah. They do that all -- you know, like a lot of
 8 times. They can also ask us to do -- you know, to write the
 9 body what happened and we would, you know, write it down, you
 10 know, "At this time, you know, on this date, you were seen
 11 sleeping in the booth and I watch you, X." You know, I will
 12 write down, you know, the body because I'm the first person to
 13 witness that infraction --
 14 Q Okay.
 15 A -- and then I will send it to them. So it's up to them
 16 whether or not to issue that employee report.
 17 Q Okay. So sometimes managers fill in the -- fill out these
 18 progressive disciplinary warnings --
 19 A Yeah. There's the --
 20 Q -- and sometimes --
 21 A In a sense. For example, if they see somebody walking on
 22 the lane without a safety vest --
 23 Q Okay.
 24 A -- and they will watch that and, "Okay. Write this person
 25 up." Or they will prepare the write-up, send it through the

1 tube -- because I work in a remote area where they use a tube
 2 system to, you know, send documents back and forth -- I will
 3 issue that.
 4 Q All right. So just to summarize now. So sometimes these
 5 progressive disciplinary warnings are -- are put together by
 6 the managers --
 7 A Correct.
 8 Q -- and sometimes they instruct supervisors to put them
 9 together?
 10 A Correct.
 11 Q Okay. And when you are instructed to put together -- to
 12 put a discipline together, does the manager tell you what
 13 discipline to issue?
 14 A Correct.
 15 Q Okay. Now, do you do your own research to find out how
 16 many warnings a particular person has had or anything like
 17 that?
 18 A Yes. We -- recently we started receiving a disciplinary
 19 warning, the steps of every single employee working in the
 20 company, including managers, through e-mail from the HR
 21 department. So all I have to do is open that last chart, see
 22 where that person is. If he is on -- on the second level --
 23 not only me, the managers, also do check that. They say,
 24 "Okay. He's on" -- "he's on the second level, so now go ahead
 25 and do the third warning." You know, the final warning, you're

1 suspended for one day. It was whatever, you know, the step is.
 2 So we started receiving those I believe about three months
 3 ago. We never had that -- those informations (sic throughout),
 4 so -- so it was the managers who will go through the chart or
 5 talk to the AGM or the general manager to get those
 6 informations. So I never knew -- because I can write any
 7 employee -- not necessarily, you know, my team member -- as
 8 long as I get instruction from my manager. So if that employee
 9 received an employee report or a progressive disciplinary
 10 warning from another supervisor, I wouldn't know because we
 11 don't have those informations until -- until recently
 12 A Until recently.
 13 Q All right. So -- but to clarify then. So from three
 14 months -- just for the last three months you've been able to
 15 have access to all the disciplines issued on a given
 16 individual?
 17 A Correct.
 18 Q And before that, you would have to request of management
 19 or HR to find out where they were in the disciplinary steps?
 20 A If I am instructed to make -- prepare the write-up, yes.
 21 Q Okay. Now, you said this management is signature line
 22 here, it says review, that it's not really review; it's
 23 approval?
 24 A Yes.
 25 Q What do you mean by that?

1 A Well, because I can't issue an employee report unless that
 2 managers signs on that spot. But sometimes what they do is if
 3 it is a plain -- it's a very knowing infraction, let's say
 4 attendance, the employees, we -- we give them a copy every
 5 month, you know, with our team meetings. So my team members
 6 know where their attendance is. If they call out today, if I
 7 have to give them three points for that call-out and if they
 8 were on 11, that would make it 13. So attendance point 13 will
 9 warn (sic) you to a first notification. They don't argue
 10 because they know where they are. So sometimes we skip that
 11 procedure, we have them sign and send it to the manager and the
 12 managers review the attendance tracking and then sign it and
 13 turn it in to HR. It doesn't always happen that way, but
 14 that's the general guideline. That's the understanding.
 15 Managers have to sign, HR has to be involved before we issue a
 16 disciplinary warning to an employee. Not because they are
 17 union employees
 18 Q Okay. Now -- but one exception to that apparently seems
 19 to be attendance. That's just a mathematical --
 20 A Correct.
 21 Q -- computation where they are and where --
 22 A Correct.
 23 Q -- the points are, right?
 24 A Correct.
 25 Q And so there are occasions with attendance when you

1 actually fill out -- you as a supervisor actually fill out a
 2 disciplinary warning, give it to the employee to sign before
 3 management signs it?
 4 A Correct.
 5 Q Now, do you have to attach any documents to the Attendance
 6 Disciplinary Warnings?
 7 A There are attendance records.
 8 Q Okay.
 9 A Their recent attendance record.
 10 Q And do you know what the managers do when you send up an
 11 attendance thing with attached attendance record?
 12 A Yeah. They will review the attendance record to see if I
 13 give them a credit. We have a credit, and if that employee did
 14 not have any infraction for the last 90 days, they get another
 15 credit. So they make sure if I, you know --
 16 Q Your computations?
 17 A Yeah, exactly. Follow that and that the numbers are
 18 correct. But before that, because we do issue those copies to
 19 our team members every month, they know where they are at
 20 and whether or not they have credit or, you know, been issued
 21 on that attendance tracking.
 22 Q And do you have any discretion to decide whether or not to
 23 write up a certain person for attendance?
 24 A No, ma'am.
 25 Q So other than attendance, which -- when the record is

1 attached that you can issue that before a manager signs, is
 2 there any other kind of discipline that you can issue before a
 3 manager signs off on the disciplinary warning that you can give
 4 to an employee?
 5 A I believe there's -- there's no other infraction that I --
 6 I would give a write-up without getting approval from the
 7 manager or HR.
 8 Q Well, let's look at the question of someone showing up not
 9 in their uniform.
 10 A Uh-huh.
 11 Q What is your responsibility as a supervisor when you
 12 observe someone who is not in their uniform?
 13 A If somebody comes in to work without a complete uniform --
 14 a uniform includes nameplates because we -- we do have a badge;
 15 they're issued by the airport. If they don't have a nameplate,
 16 if they misplaced it, I would talk to them and say, "Where's
 17 your nameplate." "I don't have it with me. It's in my car. I
 18 was on the other side yesterday working overtime, so I left it
 19 in there." I will check with the other side if, you know,
 20 they -- they have it and have them send it to the location.
 21 If they say, "I forgot it at home" -- so as an incentive
 22 parameters, what we do is -- I do is I take away one incentive
 23 point because they didn't qualify, you know, that -- that
 24 complete uniform incentive program. So I would just take one
 25 point away. But if they come up with their own pants, black

1 pants, where they should have been wearing another -- their
 2 uniform, I would call the manager and say, "Hey, X came with
 3 his own pants." They will tell -- ask me whether he got
 4 approval from a manager, which oftentimes they do; they will be
 5 approved to wear their own pants if their pants were down or if
 6 there's an order in progress and their old uniforms don't fit
 7 them anymore. So you have to check with the manager whether or
 8 not they are -- they have the approval or the okay to wear
 9 those pants or any different attire. If they don't have any
 10 approval, one of two things happen: Either they get -- receive
 11 a progressive disciplinary warning, which is --
 12 Q They get a what?
 13 A A write-up, a progressive disciplinary warning, for not
 14 coming to work with a full uniform or they will be sent home.
 15 Both -- in both cases, that come -- has to come from the
 16 manager. I can't just send somebody home. I don't have that
 17 authority.
 18 Q Okay. Now, let's be clear, if we could. This nameplate,
 19 is this something that's being worn on the uniform or --
 20 A No. This is for the cashiers. They will put it on --
 21 outside their booth. It's a window. There's a sliding in
 22 plate and they --
 23 Q Okay.
 24 A -- will slide it in there so customers can, you know, know
 25 who they're talking -- talking to or who's assisting them.

1 Q Now, you said in the example of a nameplate that you can
 2 remove one incentive point. Now, is it up to you to decide --
 3 if they show up without a nameplate, you can't find it, is it
 4 up to you to decide whether or not to remove one point or are
 5 you required to remove one point?
 6 A I am required to remove one point because occasionally
 7 managers do an inspection in -- in the work area that I -- they
 8 do facility audits and if they find me -- if they found out a
 9 cashier was without a nameplate and if I can't explain that I
 10 didn't took one point away from their incentive, I will be in
 11 trouble. That means I'm not doing my job.
 12 Q Okay. But, again, this is not something you can exercise
 13 judgment about; if you see it, you have to do "this" to the
 14 points, correct?
 15 A Correct.
 16 Q Now, on attendance and tardiness, do you have discretion
 17 of whether or not to write up someone for their attendance or
 18 are you required to write them up if they reach a certain point
 19 level?
 20 A It is -- it's stated on the policy. If somebody reaches a
 21 certain point, then they have to be written up for that.
 22 Then -- it happened to me. I failed to track down somebody
 23 else at some -- the team member attendance. That person jumped
 24 to the next level. So I got write (sic) up for that. I got
 25 written up because I didn't track down their -- I have to issue

1 a write-up if they reach to that attendance point. It's --
 2 it's my job to make sure that they are written up then because
 3 they don't learn from their attendance infraction.
 4 Q Are you aware of the hour limitations for staffing as
 5 dictated by the city of Denver contract?
 6 A I had no knowledge of it until I hear that testimony from
 7 the AGM.
 8 Q And tell me what authority you have to decide whether or
 9 not people are going to be allowed to work overtime.
 10 A As a supervisor, I don't have any authority until I
 11 consult with the manager that we have an -- an opening on the
 12 schedule from -- if somebody calls out or if somebody's on
 13 vacation and if we don't have overtime posted for that person,
 14 if that position is not -- the spot is not filled, I will go to
 15 a manager, tell them that I -- I have one opening and ask them
 16 what do they want me to do. And usually they say, "oh, okay,
 17 go ahead and find somebody. Follow the seniority list." And
 18 then I follow that seniority, ask people if they want to stay
 19 and then I will -- I will fill it, that spot.
 20 Q Well, let's assume for the sake of argument that you're
 21 working one day and you have three people call in with the flu.
 22 So you have three openings in the schedule. Do you
 23 automatically then go to the sign-up list for overtime or force
 24 people in in order to fill those three positions?
 25 A If they call out a few hours before the shift, there --

1 there will not be any overtime posted, because I was -- they
 2 just called out today. Usually overtimes are posted in -- in a
 3 week- or two-week basis. Usually those are people on vacation,
 4 on leave of absence or on FMLA or personal day. So it is
 5 documented. They have to request a 30-day advance notice in
 6 order to get approved. So most of the time the overtimes that
 7 are usually on the board is for those people.
 8 If somebody calls out today, three:00 to -- then I have to
 9 talk to a manager to see if they want me to fill in those
 10 spots. Oftentimes if we have four people called out and --
 11 they say, "oh, go ahead and" -- "if you get two, that's
 12 enough." I would say, "We have four people called out." "No,
 13 two is enough. It's a slow day." That's their judgment call.
 14 I said, "Okay," and I will follow that seniority, see if I can
 15 find two people. If I can find two people, put them on the
 16 schedule. If I can't, I will let them know that I couldn't
 17 find those -- the two people that we wanted, and then we will
 18 work around the schedule, move people from another department
 19 who are cross-trained. Whatever the managers, you know,
 20 decide. So my job is to let them know what's going on; give
 21 them that information.
 22 Q And to let them know you're talking about who. Who's the
 23 "them"?
 24 A Operation managers and occasionally the general manager --
 25 assistant general manager.

1 Q So in the hypothetical, the example you've given where
 2 four people call in and -- but call off work because they're
 3 sick or whatever, you can't just go ahead and follow the
 4 Collective Bargaining Agreement and fill in those four slots?
 5 A No, ma'am. I will be in trouble if I do that.
 6 Q Okay. So the manager has to tell you --
 7 A Exactly.
 8 Q You would inform the manager, the manager tells you how
 9 many, if any, to fill?
 10 A Exactly.
 11 Q And in order to fill them, what procedure do you follow?
 12 A Seniority.
 13 Q Okay.
 14 A You go by seniority, you go by the most senior person.
 15 And if he -- that person doesn't want, you go to the junior
 16 person and then you go down the seniority list until you find
 17 those two people.
 18 Q And you're filling this by what, making telephone calls or
 19 something?
 20 A Yeah. If they are working, then you ask them there. If
 21 they are home, the most senior person is home, you call them at
 22 home -- we -- we have phone numbers on those employees -- and
 23 ask them if they want to come in. Sometimes they -- if we
 24 don't give them enough notice, they say, "Oh, no. I don't have
 25 enough time. You're just giving me two hours. I live an hour

1 far from work, you know, the airport." So then we -- you go to
 2 the next person.
 3 Q Okay. Now, have you ever been involved or consulted any
 4 way when a new employee was being hired?
 5 A No, ma'am.
 6 Q Are you aware of any supervisor who was ever involved in
 7 the hiring of a new employee?
 8 A Nobody ever talked to me about that and I honestly don't
 9 think anybody would be consulted. I mean, supervisors.
 10 Q Have you ever been involved in the decisions to lay off or
 11 re-call individuals?
 12 A No, ma'am.
 13 Q Have you ever been consulted about that?
 14 A No, ma'am.
 15 Q Are you aware of any supervisor who has been consulted
 16 about layoff and re-call?
 17 A No, ma'am.
 18 Q Have you ever been consulted or have you ever heard of any
 19 supervisor who has been consulted regarding decisions to
 20 promote individuals?
 21 A No, ma'am.
 22 Q Do you have -- what latitude, if any, do you have in job
 23 assignments?
 24 A Can you say that again or ask it a different way?
 25 Q Okay. Well, do you have any options of about what

1 individual works at what job?

2 A No. They -- we have what we call a master schedule and
3 they bid for that and they are -- that's their permanent
4 schedule. If I move somebody, it has to -- I have to have an
5 operational reason approved by the operation manager, because
6 ultimately those cashiers or agents will ask me why -- if I did
7 schedule, why I moved them from, you know, this location to
8 another location. If I don't have any operational reason
9 approved by a manager, then I -- then I will be in trouble
10 because I would be -- again, it's the Collective Bargaining
11 Agreement.

12 Q Again, it's what?

13 A The Collective Bargaining Agreement.

14 Q Okay. So in order to transfer or reassign someone, you
15 have to get management approval?

16 A We don't transfer employees permanently. I'm talking
17 about in reference to a short staff in a location or a busy day
18 or if somebody calls out and we couldn't fill that spot. And
19 then we would obviously move a cashier from this location
20 that's their permanent shift and B to this location. And then
21 that has -- that has to be approved by the operation's manager
22 as well.

23 Q And just to be clear now, when -- when a -- your example
24 is a cashier is in this location and because of some necessity
25 gets moved to a different location, now that cashier's bid, is

1 that bid for a particular location?

2 A Correct.

3 Q Okay. So you'd be going outside the Collective Bargaining
4 Agreement and that person's bid to send them somewhere else?

5 A Correct. Because if -- if the operation requires it, then
6 we did not have to let them stay there when we have a shortage
7 here. So we see all -- the whole operation. So those
8 employees are there to assist with that, you know, operation.
9 So even though we have a Collective Bargaining Agreement to let
10 those employees work as much as possible if the operation does
11 not require them to work in another location, so --

12 Q Okay. Now, if you're a lane supervisor supervising your
13 set of cashiers, how would you know that the lane supervisor in
14 another location needs cashiers? How does that information
15 come to you?

16 A We have -- at the beginning of the shift, as soon as I
17 clock in, I would go to the board where the schedule is posted.
18 And if I see my name on the breaker schedule, so that means I
19 am the lead supervisor today. There are other supervisors
20 assigned in other locations; east, west. So my job is to make
21 sure those locations get a fair share of work force. If this
22 side has three, if this side has five it's because this side is
23 more busier than this side.

24 Q Okay. And --

25 A So --

1 Q -- if this side has three and this side has five, who's
2 decided who gets three and who gets five?

3 A That schedule, by the way, was posted -- was done by the
4 previous before my shift. So that supervisor did consult a
5 manager to put the schedule that way. And my job is, when I
6 took over, I will revise it. For example, on this side, the
7 schedule says X is in group five but, in fact, that person is
8 in four. So I will call that location and say, "Do you have
9 any changes on the schedule?" They say, "Oh, yeah, five" -- "X
10 is not in five; he's in six. The reason is that booth is broke
11 down. So we moved him to four." So I have on change that and
12 file it.

13 Q Okay. That's if you're the lead supervisor --

14 A Yes.

15 Q -- you said? Okay. I'm just talking about if you are
16 the -- the lane supervisor in this location. How would you
17 know that somebody needs to be transferred or reassigned? How
18 does that information come to you?

19 A Oh, managers. If I have extra cashiers, they will call me
20 and say, "Hey, can you pull one cashier. I need to take them
21 to this side." I probably will say, "Oh, I'm busy here too.
22 So no I need them." "Okay."

23 Q Well, let's --

24 A "Pull the cashier."

25 Q -- assume you're a lane supervisor and you have, I don't

1 know, your people go to lunch and come -- your five cashiers
2 that day and three of them go and eat fish and get sick, they
3 need to go home. So you're down by three

4 A Uh-huh.

5 Q Do you call up the lane supervisor in a different locale
6 and have him send over some people?

7 A Nope. We have to call the manager. We have to let them
8 know that employees are sick and they obviously want to go home
9 and I'm short staffed. And what they do is they will call
10 other side and say, "Hey, you know, pull one cashier" or two,
11 whatever, you know, the number is. And then -- they're the
12 ones who make the -- those shifts -- or moves.

13 Q Now, under the -- under the disciplinary policies there's
14 been some discussion by other witnesses in terms of your
15 authority to suspend. Do you have authority independent of any
16 consultation with management to decide to suspend an employee?

17 A No, ma'am.

18 Q What -- in terms of an employee with an infraction, what
19 is your responsibility when you see an infraction of company
20 rules?

21 A I would immediately note that and notify the manager on
22 duty. If necessary, you know, notify the employee too that
23 he's violating a company policy or she is violating company
24 policy.

25 Q Now, there's been some testimony regarding this reward

1 program. Can you describe to the Hearing Officer what your
2 responsibility is in regards to this reward programs for people
3 who you oversee?

4 A The incentive on this program, we have criterias (sic) to
5 complete incentives every day There are four criterias
6 (sic). One is whether or not they come in on time, checking
7 their tardiness; the second is whether they come in with their
8 full uniform. If they are missing one part of that uniform,
9 then we obviously don't give them those incentive bonus point
10 The third element is whether or not they clean their work area,
11 which is their booth. And the fourth criteria is whether or
12 not their paperwork is accurate; whether they document all the
13 exception transactions they have in their paperwork. Whatever
14 exception thing they have, it has to be logged in on -- on
15 their cashier lane report. So -- so we -- we check those. So
16 if they do all those four things correctly and if they work
17 four hours and more, then they get four points for that shift.

18 Q Now, you -- do you get to decide that because, I don't
19 know, Mr. X shows up with his full uniform but his shoes are
20 extra shiny and creases in his shirt, do you get to decide to
21 give that guy two points rather than one point?

22 A No, ma'am.

23 Q How --

24 A It's just one.

25 Q How -- how do you know how many points they get for this

1 incentive program?

2 A It's set on the incentive bonus guideline. There are
3 other incentive guidelines that I probably didn't mention.
4 When we do the incentive updating, we also do a monthly
5 meeting. If we do a monthly meeting, then we give them five
6 additional points for having that meeting with me If they
7 have a perfect attendance at the end of the month, if no
8 infraction, if they're coming to work on time, if they work the
9 whole shift, and then I will give them a perfect attendance
10 point of ten. I can't give them nine or seven or six. Ten.
11 And if there's a meeting, I can't just give them six or four.
12 It is five.

13 The other thing is if managers notice an employee doing
14 something exceptional like cleaning their car or cleaning the
15 break room, they will either call me and say, "Hey, would you
16 make sure that X gets ten additional incentive points." Well,
17 they -- they would probably e-mail that. I'd say, "Okay.
18 Why?" "Because I watched him clean his booth, the break room,
19 his vehicle." I'd document that and when I update my
20 incentive, I put that additional incentive and -- on the
21 comment side per manager. Just that way the payroll manager,
22 Billie Jay (phonetic), won't come after me and say, "Why did
23 you put another five points on this column?" If she says that.
24 "Okay. You got authorization." She will probably call them
25 and ask them. I don't know. If she don't ask me, then she

1 would probably ask them and that would be the end of it.

2 Q All right. So in the comment section, do you have the
3 latitude to give someone additional points without a manager
4 telling you to give them additional points?

5 A No, ma'am. In fact, on the -- on the comment side, if I
6 put zero on the day that they're supposed to -- to work, I have
7 to write a comment; Absent, LOA, vacation, personal day,
8 whatever, you know, the reason is, on the comment side,
9 otherwise the person, you know, reviewing those incentives may
10 not know why that person got zero when that was -- he's a
11 scheduled date. So on the comment side, you have to document
12 those as to why you didn't give them the point. Or if you give
13 them ten and -- you have to write perfect attendance. Or they
14 work extra hour. If they work extra hour other than their
15 shift, you give them another four points because they come with
16 their uniform, they clean their booth or their booth is --
17 their work area is clean, they have correct paperwork, you
18 give -- you give them another four points. And on the comment
19 side you say, "Extra hour. Worked extra time."

20 Q So if they work extra hours and they are again -- show up
21 with their uniform, show up on time, clean their booth, and the
22 other criteria, then if they work a minimum of four extra
23 hours, they four points?

24 A Correct, four -- four hours and about. In order to
25 qualify for the incentive, the full incentive point, they have

1 to be there for at least four hours.

2 Q So, again, these extra points are dictated by some sort of
3 a formula?

4 A Oh, yes. There's a guideline.

5 Q And the comment section is for you to explain any of these
6 additions?

7 A Yes.

8 Q Now, in a situation such as Company Exhibit 13, this is
9 an -- a suspension and it's written in there two days. Do you
10 have authority to decide how long a person is supposed to be
11 suspended?

12 A No, ma'am.

13 Q Who makes that decision?

14 A The manager in consultation with the human resources.

15 Q I'm sorry?

16 A The operation manager with the consultation of the HR,
17 human resources. That's what I understand. Probably they
18 decide by themselves also.

19 Q Does the operation's manager -- do you have the experience
20 that the operation manager comes to you for recommendation of
21 how many days to be suspended?

22 A That's -- no.

23 Q Are you aware of any other supervisor who has been
24 consulted on number of days for suspension?

25 A Not that I know of. I'm pretty sure nobody got that kind

1 of consultation.

2 Q So in terms of the incentive program again now, does
3 that -- are you involved in making evaluations and exercising
4 your independent judgment about who should get how many points
5 or how much money?

6 A No, ma'am. This is pretty clear standard procedure. I
7 mean, if somebody comes in on time, then I don't get to say
8 even though that employee came in on time that I would skip
9 giving him that point I -- I can't do that. I have to issue
10 him that one point because he earned it.

11 Q Okay. Now, are you one of the supervisors who's in a
12 satellite office?

13 A Correct.

14 Q This is over near where the booths --

15 A Exit cashiers booths are.

16 Q Exit cashier booths are. Okay. So what percentage of
17 your time do you spend in the office?

18 A I would say roughly about 40, 30 percent.

19 Q Thirty to 40 percent --

20 A Yeah.

21 Q -- is in the office?

22 A Uh-huh.

23 Q And the rest of it is outside with the cashiers?

24 A With the cashiers, assisting customers and, you know,
25 directing traffic. But it was different before.

1 Q What do you mean? I'm sorry?

2 A We have a new -- a cube installed on the exit lanes. So
3 it requires us to go out to the lane, you know, many times
4 than, you know, we used to before. We had another cub three
5 years ago, probably two-and-a-half years ago, and we could just
6 sit in the office and assist cashiers.

7 Q Okay.

8 A But at this time about 60 percent we are outside assisting
9 customers. But we do carry a radio. Any communications that
10 we need to make, we communicate with managers, other service
11 providers, traffic agents, dispatchers over the radio.

12 Q Okay. Now, there was also some testimony earlier today
13 about shift trades called mutuals.

14 A I recall that, yeah.

15 Q Okay. Could you tell us how shift trades work?

16 A A shift trade is an agreement between two employees. We
17 can't get --

18 Q An agreement?

19 A An agreement. It can't be between traffic agents -- you
20 know, both are the same position. Let's say -- I'm gonna give
21 you an example. Cashiers; and basically what they do is they
22 -- they swipe or they trade their shift -- their off day
23 within one week. As long as that does not create an overtime,
24 we will sign on the spot that says supervisor approval and send
25 it to a manager That mutual is not approved until a manager

1 signs on that paper. And I have listened that witness -- you
2 know, testimony over and over again, but in reality, a mutual
3 is not approved until a manager signs it. And if employees
4 choose to, you know, do a trade by themselves or because they
5 talked to a supervisor, they -- they all end up in getting an
6 employee report or disciplinary warning because that happened
7 without an authorization from a manager

8 Q Okay. Now, when a mutual is put together, is there a form
9 for that?

10 A Yes.

11 Q And who fills out the form?

12 A The cashiers or who -- you know, the two parties that they
13 want -- you know, want the mutual.

14 Q And what role do you have?

15 A What they do is after they fill out, they will sign and it
16 they will give it -- give it to one of the supervisors. So if
17 I receive the mutual request, I will check the dates, see if
18 that person is off on that day and then see the next person's
19 date, and if that person is off and they are swapping in their
20 shift their off day, plus if that is not creating overtime,
21 they can't make a shift trade if that shift trade creates an
22 overtime. So I would check those facts, sign it. That means I
23 checked those things and this mutual does not create an
24 overtime.

25 I also check if -- you know, those people make those shift

1 trades every other week, I check also if there's any pattern.

2 You know, sometimes people want to be off and certain days and
3 then there's mutuals and, you know, I will tell them, "This is
4 a pattern," because again there's a posted thing saying, "If
5 you have to do a mutual" -- it's also in the Collective
6 Bargaining Agreement. "If you want to do a mutual, you can't
7 do it every week." So I check those things, sign it, send it
8 to a manager. The cashiers know that until the manager signs
9 it and put them on this computer -- there's a chart on the
10 computer. We all have access to that. Until it is on that
11 system, it is not approved. Before --

12 Q So, I mean, who puts it on the computer?

13 A About -- I will say since January of 2012, they're -- the
14 only people who approve a mutual are the manager Mchamoud, the
15 person who testified this morning, and the payroll -- the
16 payroll administrator and the general -- assistant general
17 manager. So all --

18 Q Office manager, assistant general manager and payroll?

19 A The payroll administrator, yes.

20 Q Payroll --

21 A The three people. If they don't approve it, then it's not
22 approved.

23 Q Okay

24 A Simple.

25 Q Do you know who actually puts it on the computer?

1 A Whoever approves it.
 2 Q Okay Do you ever put it on the computer that it's --
 3 A Not after --
 4 Q -- approved?
 5 A Not after January of 2012. But what -- before that, what
 6 they do is they will approve it and then say, "Go ahead and put
 7 it on the computer." And then -- but we had a different chart
 8 then than now.
 9 Q Okay.
 10 A So --
 11 Q But still it was the manager who was making the decision?
 12 A Whether or not that mutual was approved.
 13 Q All right.
 14 A Because the mutual format says, "Approved by a manager.
 15 Denied by a manager." If they sign it on the denied side, it's
 16 denied. Period.
 17 Q So the form itself says --
 18 A It says --
 19 Q -- approved or denied?
 20 A Correct. Approved by a supervisor or denied by a
 21 supervisor; approved by a manager, denied by a manager.
 22 Q So is it fair to say then that when a supervisor signs as
 23 approved, he can approve it only when there is no pattern,
 24 there is no overtime and the off days fit?
 25 A Correct.

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1 Q He has no latitude to say, "Well, the off days don't fit
 2 but that's okay; I'll approve it anyway?"
 3 A No, ma'am.
 4 Q Okay. Now, can you tell us a little bit about these
 5 monthly meetings?
 6 A Monthly meetings are -- the agendas are generally set by a
 7 manager. They will send us sometimes the whole meeting, every
 8 word of it, and it will say, "You can adjust it if you want
 9 to." So what we -- what I usually do is if I have any -- any
 10 agenda that I want to include, then I will put that into that
 11 meeting agenda, otherwise I would just change my team member's
 12 name and put on that team meeting, oh, you know, those with the
 13 employee. We don't have a formal meeting. We can do one-on-
 14 one over the phone, you know. And then --
 15 Q So it's not that everybody's gathered in one --
 16 A No.
 17 Q -- spot?
 18 A No. We don't --
 19 Q Does it --
 20 A That is --
 21 Q -- sometimes work that way or not?
 22 A Never. We -- we always try to do that, but it's unlikely
 23 because --
 24 Q It doesn't work out?
 25 A -- because of the operation requirement, we can't -- you

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1 can't pull six people from the lane.
 2 Q Now, when you said the agendas are generally set by a
 3 manager, did you -- did I hear you say "word for word"?
 4 A Oh, yeah. It will say, "You can add or deletes" or, you
 5 know, they will give you that option, but usually what is on
 6 that meeting is important and relevant and, you know, you would
 7 cover that.
 8 Q So by covering it, are you reading it out loud to people
 9 or are you just --
 10 A Yeah Oh, no, you make a copy and discuss it and -- you
 11 know, and brief what that --
 12 Q So you --
 13 A -- meeting agenda says.
 14 Q -- distribute copies and then discuss?
 15 A Correct. And then I have them sign and it has to be
 16 documented. Without that signature, management doesn't know
 17 that I, you know, conducted that meeting. Because it's
 18 requirement as in my job responsibility. Also if I don't get
 19 that signature, I cannot give them that five additional
 20 incentive points for a meeting.
 21 Q Now, how many people, as a lane supervisor, do you
 22 oversee? How many cashiers?
 23 A I have six team members. Those are my members. But in a
 24 given shift --
 25 Q Did you say six zero?

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1 A Yes -- no, ma'am. Six. Only six.
 2 Q Six cashiers?
 3 A Not only cashiers. I have an LPR clerk, an audit clerk in
 4 my -- in my team. So -- but they are employees.
 5 Q Okay.
 6 A But in a given shift that I'm working, I'll probably have
 7 three in -- in the garage, two in economy five; sometimes four
 8 in the garage, two in economy six; five in the garage, two in
 9 economy seven. So, depending on, you know, how busy we are and
 10 depending on, you know, the date, sometimes we have more
 11 cashiers, sometimes we have less cashiers.
 12 Q Okay. So --
 13 A So those are the people that I oversee in that given
 14 shift.
 15 Q So you mentioned -- did you say a team?
 16 A Yes. We have team members assigned to each and every
 17 supervisor.
 18 Q Okay.
 19 A Traffic supervisors have traffic agents under them that
 20 they oversee. And not only the operation, those are -- those
 21 agents' responsibilities as a supervisor is to do the
 22 insensitive, track their attendance, you know --
 23 Q Okay. But on a given shift, it may vary of how many
 24 members of your team are there?
 25 A I may not have, you know, one --

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1 Q Is that correct?

2 A Yeah. I probably have one here, the other one is on the
3 other location. Sometimes you have all of them in one
4 location, you know.

5 Q Okay. Now, there was also some testimony about resolving
6 grievances. This is where an -- one of the people under a
7 supervisor is written up or disciplined. They file a
8 grievance. What role, if any, do you have in resolving
9 grievances?

10 A Okay. If I'm instructed to write somebody up, my job is
11 to make sure, you know, I provide the documentation to support
12 that write-up because I'm the first person to witness that
13 infraction. And that -- because the people that are, you know,
14 are in charge or oversee union employees, nine out of ten they
15 will grieve. They say, "I didn't do this," even though they
16 know they did it. So what -- they chart that and they will
17 send us an e-mail or they will call us and say, "Hey, we have a
18 grievance meeting on this date. Can you, you know, come to a
19 grievance meeting?" Or they will send an e-mail and ask for
20 the office schedule from 2:00 to 3:30 from -- for a grievance
21 meeting. So I'll be let off, you know, the operation from the
22 work area to be on the meeting. But I cannot resolve a
23 grievance by myself. Just because I prepared the write-up,
24 they don't come to me and then I say, "Oh, okay, I made a
25 mistake," or, "Okay, now I understand you," you know, and call

1 a manager or HR, "Would you please remove that write-up from
2 the file?" I cannot do that.

3 Q Who has the authority to resolve grievances?

4 A HR, the general manager or the assistant general manager.

5 Q Or what?

6 A The assistant general manager.

7 Q Now, let me refer you to Company Exhibit 10, please. This
8 is an Attendance Progressive Disciplinary Warning for Hag --
9 Hanna Aguye?

10 A Uh-huh.

11 Q Aguye. Aguye. I have no idea

12 A Aguye.

13 Q Aguye. That's sort of French, isn't it --

14 A No.

15 Q -- sounding? French sounding. Sorry.

16 A Okay.

17 Q Okay. Now, this one -- looking at 10 and then looking at
18 Company 9, I see that there is a difference between --
19 Company 10 says, "Attendance Progressive Disciplinary Warning,"
20 whereas Company 9 says, "Progressive Discipline Area Warning."
21 So is it the case then that there are separate forms for
22 attendance write-ups?

23 A Yes. We have --

24 Q Okay.

25 A -- different forms for attendance, attendance-related

1 infractions and we have another form for any other progressive
2 disciplinary warning. It could be shortage, it could be a
3 valid -- a violating of company policy or sleeping in a booth
4 or talking on the phone, not coming with their full uniform or
5 whatever. Anything other than attendance.

6 Q And is Company Exhibit 9 then an example of that form for
7 anything other than attendance?

8 A Yes. Exhibit Number 9 is not attendance.

9 Q Okay. Now, you noted before in your testimony I believe,
10 sir, that with attendance, these are the types of write-ups
11 that can happen before a manager approves, although ultimately
12 a manager must confirm them, right?

13 A Correct.

14 Q And these again are the reports that are written up by
15 supervisors after they attach the supporting documents, right?

16 A Correct. This particular case is a little bit different.
17 But, yeah, when you do an -- the attendance-related write-up,
18 you have to attach the attendance tracking form to show why you
19 are, you know, writing that person up, you know, why you
20 prepared a write-up.

21 Q Okay. So -- and we have -- the second page of Company 10
22 is the attendance tracking form --

23 A Correct.

24 Q -- correct?

25 A Correct.

1 Q And, again, to clarify, this is something -- the
2 attendance tracking form is something that the supervisor put
3 together, correct?

4 A Correct.

5 Q And there is a company policy which is very specific about
6 how many points you are given and taken away depending upon
7 your attendance, right?

8 A Correct.

9 Q There's no discretion by the supervisors?

10 A Nope.

11 Q Is that correct?

12 A Correct.

13 Q Okay. So now the third page then is -- is a one-sentence
14 statement from a Mr. Dean Chavez. In your experience, why is
15 this statement attached here?

16 A I believe the cashier claimed that she submitted a mutual
17 form, that she told the other -- but everybody agreed to the
18 supervisor and she didn't check back, my understanding, and --
19 but she didn't show up for work. So when she came back, she
20 said he turned in that paper to Mr. Dean Chavez and Dean Chavez
21 said, "I didn't get any mutual form."

22 Q So is this standard procedure, sir, for a supervisor to
23 give a written statement in support of a disciplinary?

24 A Yeah. If I asked -- if somebody claims that they give me
25 a mutual form signed by the two parties and if I didn't receive

1 it, and management will require me to write a statement whether
 2 or not I received it.
 3 Q Okay. And apparently there's an investigative report from
 4 the lane supervisors. The third page here, is this also a
 5 standard thing that is done by supervisors?
 6 A I believe she -- she probably claimed that she did a
 7 mutual with another cashier and that cashier said they didn't
 8 sign on -- on any mutual form, they just had a verbal
 9 agreement, but didn't sign -- actually physically sign on a
 10 paper. So --
 11 Q So is this typical or --
 12 A Well, it --
 13 Q -- normal that this kind of a report would be attached
 14 here?
 15 A I would say for attendance related, that this is typical,
 16 because she's -- she got suspended. So we have to have a --
 17 the documentation to support that.
 18 Q Okay.
 19 A We can't -- we can't just suspend her because she's a out
 20 for no show. I ask her does she have any reasons why she
 21 didn't come to work.
 22 Q Okay.
 23 A So that is why they have these supporting documents on
 24 this --
 25 Q And what is --

1 A -- exhibit.
 2 Q -- the last page that's titled, "Absence and Tardy
 3 Notification"? What is that form?
 4 A When somebody calls from work and if they are sick or if
 5 they don't feel like coming to work, they will call one of
 6 those satellite offices to get a hold of a supervisor. Let's
 7 say I received a call and this person states, "I won't be in
 8 today," and then I will ask why. "I'm not feeling, you know,
 9 good."
 10 Q Okay. So this --
 11 A So you will --
 12 Q -- is when you get the --
 13 A -- fill this form.
 14 Q You get the telephone call in that somebody's sick or
 15 otherwise not showing up, this is the form that each supervisor
 16 fills out when they receive the call?
 17 A Correct.
 18 Q Okay. And do you know this to be the practice with
 19 supervisors in all the disciplines we're talking about, like
 20 audit and everything else that they have to --
 21 A Every single --
 22 Q -- report?
 23 A -- supervisor who received a call-out has to fill this --
 24 they have to fill and turn it in to HR --
 25 Q Now --

1 A -- or a manager, because it says you had completed it.
 2 That means you received the call. You would write the
 3 immediate supervisor's name and get a manager to sign it. This
 4 one doesn't have the immediate supervisor's name or the
 5 manager's signature. So that's the procedure. Because if it
 6 says supervisor, if it has a manager's signature and then you
 7 have to let that manager sign on the paper --
 8 Q Okay.
 9 A -- to make sure that's done correctly.
 10 Q Okay Now, let's look at Company Number 9, which is a
 11 Progressive Disciplinary Warning. It's a final warning here.
 12 There was some discussion about who had signed on the second
 13 page there in the middle next to the finance line. Do --
 14 A Yes.
 15 Q Do you recognize that signature?
 16 A I do.
 17 Q Who is that?
 18 A The -- he was the finance -- the audit supervisor. He's --
 19 Q And do you remember --
 20 A -- no longer with the company.
 21 Q -- the name?
 22 A Yes. Binyam Daba.
 23 Q And do you have information why Mister -- is it a Mister?
 24 A Mister, yes.
 25 Q -- Mr. Daba signed in the signature line? Is that for

1 finance?
 2 A Yeah. He does that --
 3 MR. HARVEY: Object. There's no foundation for this
 4 question and then the person who signed it would be the person
 5 with knowledge that could credibly testify to this issue.
 6 Q BY MS. COTE: Well, let me ask it this way then: Do you
 7 know who the finance manager was at the time this document was
 8 signed?
 9 A I believe we didn't have a finance manager at this time.
 10 Q And do you know what role Mr. Daba took in the absence of
 11 a finance manager?
 12 A I -- I honestly don't know. But I have seen him working
 13 in the finance manager office. I have seen him -- he was
 14 covering for the finance manager. But, in fact, he told me
 15 that he was working as an acting finance manager.
 16 Q Okay. Now, in both Company 9 and 10, there is attached
 17 supporting documentation --
 18 A Uh-huh.
 19 Q -- that has been offered here by the Company. Can you
 20 tell me if this is standard, not standard, common, uncommon,
 21 required, not required? What about the supporting
 22 documentation --
 23 A It is a required and a standard. Like I said before,
 24 we're dealing with union employees. We have to have the
 25 documentation why we issued this disciplinary warning. So

1 that's why managers want us to do the investigation, to give
 2 them the supporting documents. That way they can go ahead and
 3 issue the write-up or, you know, instructions to prepare the
 4 write-up.
 5 MS. COTE: If I may have a moment.
 6 Q BY MS. COTE: Mr. Kuture, are there occasions where human
 7 resources or the general manager communicates with the
 8 supervisors about policies, practices or other information?
 9 A Correct. Yeah.
 10 Q And how do they communicate with you, you supervisors?
 11 A Well, they will send us an e-mail if there's any change in
 12 the policy. Just like recently, we have a new change on how to
 13 process a lost ticket. We had a different policy or procedure
 14 before. So they will send us an e-mail detailing what to do,
 15 what not to do. So basically if there's any information that
 16 they want to, you know, relay to the supervisors or other
 17 managers, that will be through e-mail.
 18 Q Okay. And when you say, "us," you're talking about
 19 supervisors and managers?
 20 A Yes.
 21 Q Do -- are you individually e-mailed about these things,
 22 about changes in policies and practices as opposed to the
 23 group?
 24 A Every time I receive e-mails of that kind, I would see who
 25 got an e-mail. So I have never gotten any e-mails separately

1 for a manager or general manager or HR, you know, of any
 2 different procedure or policy or -- I mean, you know --
 3 Q Okay. And those e-mails that come from the general
 4 manager or HR, are they -- so they're going to all the
 5 supervisors --
 6 A Yes.
 7 Q -- right, not just you?
 8 A Yes. If it was policy or a procedure or change, yes.
 9 Q Okay.
 10 A But if it is a personal matter, I -- if they want an
 11 explanation what happened yesterday, then they probably will
 12 send it to me and copy the operation manager on duty for that
 13 shift.
 14 Q Well, let's focus on policy matters and practices --
 15 A Okay.
 16 Q -- and stuff like that. The e-mails go to all the
 17 supervisors. And in those situations, do they also go to the
 18 managers, the operations managers and the --
 19 A Correct.
 20 Q -- assistant general managers?
 21 A If it is policy, everybody gets the e-mail.
 22 Q Okay.
 23 A I -- I mean, managers, assistant general managers, general
 24 manager, if it's coming from HR, everybody gets it. If it
 25 comes from the general manager, HR gets a copy, everybody else

1 gets a copy of the e-mail.
 2 Q Okay. Now, you were present for the testimony earlier
 3 today about the latitude that supervisors have in issuing
 4 discipline, that they don't need any approval, that they make
 5 independent decisions, that they have full authority, except
 6 for terminations, to implement discipline?
 7 A Yeah.
 8 Q You heard that testimony, sir?
 9 A I -- I did.
 10 Q Do you agree with that testimony?
 11 A Nope.
 12 Q Why not?
 13 A Because we don't have any exclusive power to discipline,
 14 to suspend, terminate employees. What we do is document,
 15 provide that documentation to the manager on duty or the
 16 general manager or assistant manager and it is on their
 17 discretion whether or not to write that person up, to suspend
 18 him and how many days that needs to be -- that person needs to
 19 be suspended. We don't get to, you know, recommend whether or
 20 not that particular employee needs to be disciplined. We just
 21 present the facts and the documentation.
 22 Q So you're not even asked for recommendations?
 23 A No, ma'am.
 24 Q Have you ever received a policy communication from
 25 management regarding the authority of supervisors to issue

1 discipline?
 2 A Yeah, something like that from HR.
 3 Q All right.
 4 MS. COTE: I'd like to introduce Union Exhibit 1.
 5 THE COURT REPORTER: Thank you.
 6 MS COTE: You will mark it?
 7 THE COURT REPORTER: Yes.
 8 (Union Exhibit Number 1 Marked for Identification)
 9 Q BY MS. COTE: She'll give you a copy.
 10 A Okay.
 11 Q Have you ever seen Union Exhibit 1 before?
 12 A Yep. I printed this off my e-mail, company e-mail.
 13 Q Now, it doesn't show any date here. Do you remember
 14 noticing whether --
 15 A I noticed it here, but on the e-mail, it would show, you
 16 know, who got this e-mail and, you know, when that e-mail was
 17 sent. When I printed it off, I didn't realize that until I,
 18 you know, got here. But it does show the dates and who
 19 received those e-mails. I can reprint those if I get access
 20 again.
 21 Q Now, it seems to have some sort of numbers in the far
 22 upper left. Is that a date indicator that's been cut off
 23 maybe? Do you know?
 24 A Yeah, maybe.
 25 Q It says, "Slash 23 slash 12."

1 HEARING OFFICER SAVELAND: Quick question. Did you print
2 this off today?
3 THE WITNESS: Yes.
4 HEARING OFFICER SAVELAND: Okay. That's probably today's
5 date, 7/23/12.
6 MS. COTE: Ah.
7 THE WITNESS: Yes. Yeah.
8 MS. COTE: Thank you.
9 THE WITNESS: Oh, oh, that's today's date. I printed it
10 today.
11 HEARING OFFICER SAVELAND: Do you happen to recall from
12 memory?
13 MS. COTE: I got all excited. We --
14 THE WITNESS: Yes. Yeah.
15 MS. COTE: -- we found --
16 THE WITNESS: If I get access, I can print that again. But
17 I -- I don't have --
18 HEARING OFFICER SAVELAND: Well, for right now --
19 THE WITNESS: Yeah.
20 HEARING OFFICER SAVELAND: -- do you recall from memory
21 when you received this e-mail?
22 THE WITNESS: That's -- that's the problem. I -- --
23 probably about 10 months ago to a year ago from -- it's not --
24 from 10 months to one year.
25 HEARING OFFICER SAVELAND: Okay. So sometime in late --

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1 early to late --
2 THE WITNESS: July, June, May.
3 Q BY MS. COTE: Of last year?
4 A Yeah --
5 HEARING OFFICER SAVELAND: Of last year?
6 THE WITNESS: -- last year. From May 2011 to -- yeah.
7 Q BY MS. COTE: And who is Bobby Nealy?
8 A Bobby Nealy -- it says on the bottom -- is she is the
9 human resource generalist or sometimes it says --
10 Q I believe there was --
11 A -- coordinator.
12 Q -- early testimony that she is over the other human
13 resources --
14 A Correct.
15 Q -- person who's there? And do you recall who this e-mail
16 was addressed to?
17 A Yes. This was sent to everybody; the managers, assistant
18 managers, the general manager, supervisors.
19 Q Operations manager? Did you say operations --
20 A Yes. Yeah, operation managers, managers on duty,
21 managers, it's the same thing.
22 Q Oh, sorry. Supervisors, assistant general manager,
23 general manager, operations managers --
24 A Correct.
25 Q -- Everybody? It's one of these policy e-mails that you

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1 got --
2 A Correct.
3 Q -- correct? Okay. And the content of the e-mail speaks
4 for itself, but it basically requires supporting documentation
5 for approval. And without support documentation, the
6 discipline will not be considered --
7 A Correct.
8 Q -- correct?
9 A Correct.
10 Q And that, "No discipline will be issued without approval
11 from Isaac and H --"
12 A Human resources.
13 Q Human resources. Who is Isaac?
14 A The general manager.
15 Q Okay Now, do you recall, when you originally received
16 this e-mail, was there any discussion about this?
17 A Nope
18 Q Was this news or a general -- or a new policy, in your
19 experience?
20 A It was not. I believe when the -- this memo -- or e-mail
21 was sent out, it was somebody who was trying to, you know,
22 violate this existing policy --
23 Q Uh-huh.
24 A -- and then that started to backfire on the management
25 because a lot of -- you know, the write-ups given by managers

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1 started to -- you know, the unions would grieve and there will
2 be -- you know, turn it down or, you know, taken away. So HR
3 wanted to make sure that before we issue any write-up, a
4 disciplinary -- progressive disciplinary warning, we have to
5 have supporting documentation. So -- and even if we have the
6 supporting documentation, we cannot issue without consulting or
7 getting approval from the HR and -- or the general manager.
8 Q Okay.
9 MS. COTE. I move for the admission of Union Exhibit 1.
10 HEARING OFFICER SAVELAND: Any objection?
11 MR. HARVEY: We object. We make a motion to strike all of
12 the testimony that's been related to this document. There's
13 absolutely no foundation for this document. It doesn't even
14 appear to be authentic. There's no recipients on there We
15 don't know -- it appears also that this is only part of the
16 message. You can see original message. It's cut off at the
17 bottom. There's no indication that this was an authorized or
18 implemented policy. We've seen through the documents that
19 we've already introduced today that supervisors can and do
20 currently issue discipline without Isaac's approval or human
21 resources' approval. And this just really does not look valid
22 at all. It does not look like what our company's, you know,
23 system looks like.
24 HEARING OFFICER SAVELAND: Well, I think you can go ahead
25 and definitely voir dire on this document and how -- why it

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1 looks the way it looks and maybe how the witness came into
2 possession on it. And then, of course -- well, once you're --
3 you know, you can finish your voir dire, if you want to, and if
4 not, then, you know, your objection will be noted for the
5 record. But as of this point, the testimony is he's received
6 this from a manager from the company, and there's no evidence
7 at this point, other than what you're representing right now,
8 that it's not an authentic document. Sure, it hasn't been
9 printed out properly. And if the Union is able to do that,
10 they might want to try and -- and get a more complete document
11 with the whole e-mail chain, I understand that.

12 But at this point I don't think there's any evidence
13 contradicting what the witness has said at this point, and he's
14 saying it's a document that he received through his work e-
15 mail. It does appear to be Standard Parking. And so there's
16 no evidence on record right now that -- that this is not an
17 authentic document.

18 So do you want to voir dire him at this moment or --

19 MR. HARVEY: No. That's fine.

20 HEARING OFFICER SAVELAND: Okay. So your objection is
21 noted for the record. And -- but at this point I'm going to
22 allow the document to go into evidence.

23 (Union Exhibit Number 1 Received into Evidence)

24 Q BY MS. COTE: Mr. Kuture, what -- are you in a position to
25 print a more complete copy of --

1 A Yes, ma'am.

2 Q -- this? What would it take for you to be able to do
3 that?

4 A Access to e-mail and a computer and a printer.

5 Q Okay. Access to e-mail meaning access to --

6 A Access to --

7 Q -- the Internet?

8 A -- Internet. I'm sorry. Access to Internet and a
9 printer.

10 MS. COTE: If that is available in this facility, perhaps
11 we could attempt to do that now in order to put this question
12 to rest.

13 HEARING OFFICER SAVELAND: Umm, let's take a brief break
14 off the record, please.

15 THE COURT REPORTER: Yes.

16 (Off the record at 4:21 p.m.)

17 HEARING OFFICER SAVELAND: Okay. Prior to going off the
18 record, the Petitioner had requested to use a computer at the
19 Regional Office here to print off a better copy of -- a more
20 complete copy of this e-mail that -- that the witness has
21 testified to. We are not able to let her use the computer here
22 at the Region, but she's asked for a short recess to procure
23 the copy by other means. So we're going to take a short
24 recess, hopefully about 15 minutes or so, to -- to take care of
25 that and then we'll be right back on the record. Okay.

1 Oh, and before we go off the record --

2 THE COURT REPORTER: Okay.

3 HEARING OFFICER SAVELAND: I'm sorry.

4 THE COURT REPORTER: We're good.

5 HEARING OFFICER SAVELAND: -- I just wanted to note for the
6 record the Employer objects to -- to the witness using the
7 computer here in the office, correct?

8 MR. HARVEY: Well, I don't have a problem with him
9 accessing a computer. I mean, if -- if policy is that he's not
10 able to use this computer, that's fine.

11 HEARING OFFICER SAVELAND: Okay.

12 MR. HARVEY: So I don't -- I don't object to the recess.

13 HEARING OFFICER SAVELAND: Okay. Then let's leave it at
14 that. And do you know where they can go?

15 MR. HARVEY: Yes.

16 HEARING OFFICER SAVELAND: Off the record, please.

17 (Off the record at 4:31 p.m.)

18 HEARING OFFICER SAVELAND: Okay. And can the record
19 reflect that the witness is still under oath. Thank you.
20 Proceed, Ms. Cote. I think we left off with that -- with one
21 of your Exhibits.

22 MS. COTE: Let me show you what I would like marked as
23 Union Exhibit 2, O2.

24 (Union Exhibit Number 2 Marked for Identification)

25 Q BY MS. COTE: Mr. Kuture, can you identify Union Exhibit

1 2, please?

2 A Yes.

3 Q What is it?

4 A It's the email that I received along with other
5 supervisors and managers from the human resource generalist on
6 June of 2011 -- June 20th of 2011 about the progressive
7 disciplinary change of -- or probably what we need to do be
8 doing when it comes to progressive disciplinary warning.

9 Q Okay So let's walk through this. Union Exhibit 2 is two
10 pages. And it shows originating email at 3:39 p.m. there at
11 the top that's from Bobby Nealy. Correct?

12 A Right.

13 Q And she, again, is the human resource generalist you
14 mentioned, sir?

15 A Correct.

16 Q And it is addressed to and there is a series of names.
17 Can you identify what jobs these people have who are addressed
18 here?

19 A It started with the other human resource generalist --
20 she's no longer with the company named Madge Defali (phonetic)
21 And the next recipient is the general manager Mr. Isaac Kilgore
22 and AGM Thomas Jorgensen and AG manager Bar -- and Mohamoud,
23 continued to office -- even office manager. Myself and other,
24 lane supervisor, traffic supervisor, audit supervisors, finance
25 supervisor, lane supervisor, LPI versus lane supervisor, lane

1 supervisor, lane supervisor, lane --
 2 Q Okay. Well we don't need to go through each one.
 3 A Okay.
 4 Q But it is all the supervisors here?
 5 A Yes. Correct.
 6 Q From what you can tell?
 7 A Correct.
 8 Q The general manager is also addressed here. Correct?
 9 A Correct.
 10 Q Also the assistant general managers are here.
 11 A Correct.
 12 Q And the operations managers are also included.
 13 A Correct. Yes, ma'am.
 14 Q And then all the supervisors.
 15 A Correct.
 16 Q Correct? Okay. Now this underlines that progressive
 17 disciplines and warnings have to be provided to human resources
 18 with documents attached prior to being issued to the employee.
 19 Do you see that, sir?
 20 A Yes, ma'am.
 21 Q Okay. And is that the procedure that you followed with
 22 the exception of attendance?
 23 A Yeah. Attendance because it's -- for me -- a very
 24 straight forward disciplinary forum I usually, you know,
 25 issue the attendance related warning and send that to the

1 manager. And the manger will, you know, turn it into HR, you
 2 know, and it will go into the file.
 3 Q Now Ms. Nealy goes on to say, as the document reflects
 4 that documents without supporting documentation attached will
 5 not be considered. No discipline is to be issued without
 6 approval from Isaac and Human Resources. And again, Isaac is
 7 who?
 8 A The general manager.
 9 Q The general manager. Isaac Kilgore?
 10 A Correct.
 11 Q Okay. And is this Mr. Kilgore sitting here?
 12 A Correct.
 13 Q Next to counsel for the company? Okay. And then we see
 14 down here another message that looks like it's timed at -- well
 15 3:50 and before that there is a message at 3.42. And then
 16 there is a message, it looks -- 15:30, so that would be, 3:39 I
 17 guess. Right?
 18 A Yeah. 3:39 and 15:39 are the same time.
 19 Q Yeah. It seems to be the same.
 20 A One is military, the other is -- yeah.
 21 Q And it appears to be the same message. Does it not?
 22 A Yeah. It's a chain of email.
 23 Q And to the same addressees? Okay. So after the original
 24 message that occurs on page 2 of Union Exhibit 2 that was sent
 25 at 15:39 on June 20th, 2011 there appears to be a question from

1 a Mike -- Michele Jennings?
 2 A Correct.
 3 Q Who is Michele Jennings?
 4 A Michele is the training specialist.
 5 Q And Michele Jennings, the training specialist, asks "Not
 6 even the AGM can approve it" question mark. What is an AGM?
 7 A That's -- it means -- Assistant General Manager.
 8 Q And this is -- the assistant general manager like Mr.
 9 Jorgensen who was the first person to testify today?
 10 A Correct.
 11 Q Okay And Ms. Nealy answers, "Not even the AGM can
 12 approve it." And her answer appears immediately above at 3:50
 13 p.m her answer being no.
 14 A Correct.
 15 Q Okay. Now in order to get to this email and get it
 16 printed off how did -- where did you find it?
 17 A It's on a Standard Parking email that I have access to.
 18 Q Now after June 20th, 2011, Mr. Kuture, did you receive any
 19 other email or printed policy or anything in writing from
 20 company management which contradicts this policy expressed here
 21 in this email?
 22 A No, ma'am.
 23 MS. COTE: I move for the admission of Union Exhibit 2.
 24 HEARING OFFICER SAVELAND: Any objection?
 25 MR. HARVEY: Objection -- Your Honor. We'll object that

1 it lacks foundation. And again, the same authentication issue
 2 that I raised before. So there's no evidence that Ms. Nealy
 3 sent this email herself.
 4 HEARING OFFICER SAVELAND: Okay --
 5 MR. HARVEY: No testimony to that affect. So --
 6 HEARING OFFICER SAVELAND: Okay.
 7 MR. HARVEY: -- I'll object on that basis.
 8 HEARING OFFICER SAVELAND: Okay. Your objection is noted
 9 for the record, but I'm going to allow it into evidence.
 10 **(Union Exhibit Number 2 Received into Evidence)**
 11 Q BY MS. COTE: Well let me ask you in terms of that
 12 objection that the company notes, have you ever gotten other
 13 emails from Ms. Nealy?
 14 A Correct.
 15 Q Is that a yes?
 16 A Yes.
 17 Q Uh-huh. And have they looked different from this email
 18 with a different byline in her name or anything like that?
 19 A No, ma'am.
 20 Q Is --
 21 A They looked exactly the same.
 22 Q Is there anything on this email that would lead anyone to
 23 believe or conclude that this did not come from Ms. Nealy?
 24 A No, ma'am.
 25 Q Now I don't believe, sir, that we've had any specific

1 discussion about master -- what's it called -- the master
 2 schedule? Right?
 3 A No. We didn't have that discussion.
 4 Q Okay. Now can you describe for the Hearing Officer what
 5 the master schedule is and who does the master schedule?
 6 A The master schedule for all union employees is prepared by
 7 the managers -- or assistant general manager. That originates
 8 from the shift bid that they picked when there's any shift bid,
 9 they will pick a shift, time, and a location. And then based
 10 on that the managers will prepare the master schedule. So
 11 that's how it's made.
 12 Q Okay. And this identifies employees by name, does it?
 13 A Correct.
 14 Q And by location where they work?
 15 A Correct.
 16 Q And also their job function?
 17 A No. It -- well function you mean title, cashier --
 18 correct.
 19 Q Okay. So by looking at the title you would know what job
 20 they do --
 21 A Correct.
 22 Q -- would you not, sir?
 23 A Correct.
 24 Q Okay. And this master schedule developed by manage comes
 25 to you supervisors for some reason or other, apparently. What

1 is that reason, if you know? What do you use the master
 2 schedule for -- you supervisors?
 3 A Okay. It's basically filed. They will -- once we have a
 4 master schedule the AGM or managers will send to supervisors.
 5 They say, "This is the updated master schedule for you to use."
 6 So we will base our revising daily schedule from that master
 7 schedule X is supposed to be at high speed working in the
 8 hours of 2:00 to 10:30. Then I will put that person at high
 9 speed from 2.00 to 10:30.
 10 Q All right. So you refer to the master schedule when you
 11 make up a daily schedule.
 12 A Correct.
 13 Q Correct. Okay. And what authority, if any, does the
 14 supervisor -- do the supervisors have in order to change or
 15 alter the master schedule?
 16 A No authority whatsoever.
 17 Q Well how does it get changed, then?
 18 A The only time you would change the master schedule is if
 19 the operation requires it, only for that given shift with the
 20 prior approval from the manager. I will give an example. If X
 21 works as assigned on the master schedule in the East Garage,
 22 and if you are short in West Garage, then you will talk to the
 23 managers and they will say, "East Garage has extra cashiers,
 24 than the West Garage. Even though East Garage has the minimum.
 25 So now you can go ahead and move X to the West Garage." And I

1 will do that.
 2 Q So it's the manager telling you, "We're going to move one
 3 employees from one location to another?"
 4 A Correct.
 5 Q Are you requesting permission for the managers to make
 6 those changes?
 7 A We're the one making the changes, but we request manager's
 8 approval to do that.
 9 Q Okay.
 10 A I forgot to mention if they gave us the authorization to
 11 move somebody from this location to the other location, we will
 12 start asking volunteers, because usually when they bid for a
 13 certain location they like to stay in that, you know, place so
 14 volunteer and then you go seniority. The least senior person
 15 would go to that different location than, you know, the master
 16 schedule.
 17 Q And how are -- do volunteers sign up to be moved? Or you
 18 just go to people and say, "Anybody want to go to" --
 19 A Yeah. You will announce. We have intercom that goes
 20 everywhere. So any volunteer to go. If you don't hear back
 21 from them in a couple minutes then you go look at the seniority
 22 list and then pick up the phone and call them and say, "We need
 23 you to go to this location because of operational reason. We
 24 understand you are, you know, you're supposed to work here, but
 25 for the operation purpose you are to go to this location per

1 manager X."
 2 Q Okay. So in the procedure that you follow of asking for
 3 volunteers and then going by seniority, going to the bottom
 4 first if you don't get volunteers, is that a procedure that is
 5 prescribed in the collective bargaining agreement? Or is that
 6 your decision of how to do this?
 7 A That is on the collective bargaining agreement, because if
 8 I just pick somebody and send them to a location where they
 9 didn't sign up for, and then they will grieve -- they will
 10 complain. And I will be asked why I did it and how I did it
 11 Q Okay. Now in terms of issues that come up with customers,
 12 there's been some testimony about that. What is the role of
 13 the supervisor when there are issues that arise with customers?
 14 A The exits -- this is the exit booths. You have customers
 15 coming in and complain about their experience. Like, they say
 16 my car has been vandalized, or I've seen some dings on my car,
 17 or cashiers will process a transaction and a few will come up
 18 that -- you know, different than the customer expected, like
 19 let's say \$100. Well I've been here for two days. It should
 20 have been only \$22. So the cashier will try to understand why
 21 that came up that much, or why that customer's vehicle was
 22 vandalized. And then they don't make any decision. They will
 23 contact the supervisor. If I am there I will go up, listen to
 24 the customer, that the problem is and if the fee actually is
 25 \$100, then I will go back to the money station, log into my

1 computer, type in the license plate and try to figure out why
 2 that came up \$100. Because we keep track of license plates
 3 through LPI agents. We do keep also transaction details. When
 4 customers exit we have that information on the system as well.
 5 So I research, based on the information that I get -- if
 6 customer is correct, if he came in yesterday or two days ago
 7 and that was the wrong fee that's displaying on the computer,
 8 based on the information I've gathered I will go up and dispute
 9 it. Without that documentation I cannot do anything.

10 If I don't get documentation, this is -- it happens a lot
 11 of times. I would issue them what we call a promissory note.
 12 Because I'm not able to resolve that issue at that point. So I
 13 will suggest to the customers to, you know, contact the City
 14 and County of Denver, specifically the Parking Administration.

15 Q All right. So -- and we've talked about the promissory
 16 note thing. The testimony has been that there's a limit -- a
 17 \$50 limit to what supervisors on their own can put together for
 18 a promissory note. Is that correct?

19 A Correct.

20 Q And where is that \$50 limit found?

21 A It's on a standard operation procedure. It's basically
 22 the contract between the Standard Parking and the City and
 23 County of Denver.

24 Q Okay. Now so if you -- if a customer says this is too
 25 much money, you go back and you verify that the customer is

1 right. Then you have the authority with that document to write
 2 down the fee to what is appropriate based on --

3 A To dispute it from whatever the amount is to the correct
 4 amount.

5 Q Okay.

6 A If I don't do that, because it's not because I have that
 7 explicit authority to do that. If I just charge him, then I
 8 will be in trouble, too. Because we have auditors auditing
 9 that specific transaction. And he will find out that the
 10 customer was overcharged. They will refund the customer that
 11 he owed -- you know, he is supposed to get.

12 Q Right.

13 A And then they will send to me ONI, the opportunity to
 14 improve notice and then that can progress into disciplinary
 15 warning. So I have to make sure that I have enough
 16 documentation before I, you know, decide whether or not that
 17 needs to be disputed.

18 Q And your documentation consists of determining whether --
 19 how long the car has been there?

20 A Correct.

21 Q Is there anything else you do -- we heard testimony
 22 earlier about a gate being open or stuff like that. Can you
 23 describe other than a computer, a clerical computer check, what
 24 else plays in to your ability to make an adjustment or not.

25 A Well ma'am, we have incidents when customers say, "I

1 didn't get any ticket. The gate arm was up." We verify with
 2 the, you know, the traffic department. They usually oversee
 3 the entrances. And if they have information on at that
 4 particular time the customer claiming the gate was open, so
 5 that's my backup. So I will take the time from the dispatch
 6 from the traffic department and the customer time and charge
 7 him accordingly. This is --

8 Q So if dispatch confirms that they were having --

9 A Correct.

10 Q -- problems, then you find out what was the time period
 11 that the problems with the gate occurred --

12 A Correct.

13 Q -- check that against what the customer told you.

14 A Correct.

15 Q And then make modifications?

16 A Correct.

17 Q Once it's --

18 A And charge him accordingly with --

19 Q Charge him accordingly --

20 A I mean if they don't have -- if the gate arm is up or
 21 broken, obviously they can't get a ticket.

22 Q And that you are able to do only after verifying whether
 23 or not there was a problem?

24 A Yes. And the dispatch department, traffic department have
 25 that logged in on -- they have a, you know, way of tracking

1 incidents like that.

2 Q And does the traffic department send you an email or
 3 otherwise send you documentary evidence of the time period of
 4 the gate problem?

5 A No. Not until we call them and ask them. We don't send
 6 us -- when we have to call them, you know, if indeed that kind
 7 of inconveniences, you know --

8 Q But when you do call them, they send you some document in
 9 writing? Some sort of document?

10 A No. It was just verbal.

11 Q It's verbal.

12 A Yes.

13 Q Okay. And so when you make this adjustment do you also
 14 create a record for management to review?

15 A Yes.

16 Q And what goes on that?

17 A You will document on the cashier lane report that you got
 18 the information from 97 office, traffic department, and that
 19 matched the customer, you know, claim that the gate arm was
 20 broken or the ticket issue machine was down, whatever the case
 21 might be. So you put together those statements, write it down
 22 on the cashier lane report.

23 Q Okay.

24 A When the auditors audit that then they have the evidence.

25 Q Right. Okay. So now what about the situation where the

1 customer claims, "I wasn't here that long." There is no gate
 2 issue. And you have verified that they were in fact here that
 3 long. Then what happens?
 4 A I will enforce what is, you know, showing on the fee
 5 display.
 6 Q Okay.
 7 A Of if they consistently refuse to pay, I will offer them a
 8 prom. If they still refuse --
 9 Q Offer them a what? A prom --
 10 A Promissory note.
 11 Q Uh-huh.
 12 A Then call a manager and explain what is going on. And
 13 managers will decide how -- what to do next.
 14 (Counsel Confer)
 15 MS. COTE: Okay. I have nothing further at this time.
 16 Thank you very much.
 17 THE WITNESS: Okay.
 18 HEARING OFFICER SAVELAND: Okay Mr. Harvey?
 19 **CROSS-EXAMINATION**
 20 Q BY MR. HARVEY: Good afternoon -- good evening, Mr.
 21 Kuture. And I apologize in advance. I'm kind of going to be
 22 jumping around, just because for the lack of your testimony and
 23 I don't have a whole lot of questions, but just some points
 24 that I want to clarify with you.
 25 A Sure.

1 Q You testified earlier on that the managers have to approve
 2 discipline. And that their signature is equivalent to
 3 approval.
 4 A On what do you base that conclusion?
 5 Q Because often times they will tell us to send the write-up
 6 to them before we issue, you know, issue that to the employee.
 7 So that means they want to review it and approve it before we
 8 sent, you know, issue that write-up to the employee. So --
 9 A What policy, though, says that they have to approve it?
 10 I'm not clear on that.
 11 Q I don't have any policy that I remember now other than
 12 this --
 13 MS. COTE: This --
 14 THE WITNESS: But we have an existing, you know, way of
 15 handling any disciplinary write-up. We don't just issue them.
 16 In fact if I can recall when Standard Parking took over we
 17 didn't have that -- a manager spot -- it said witness, it was
 18 approved by manager. But then they revised it for us, because
 19 without the manager supervisor -- without a manager approval,
 20 you know, we started giving attendance related disciplinary
 21 warning. So they wanted to make sure that before we issue any
 22 disciplinary warning -- I'm talking about attendance, we have
 23 to have a manager review it.
 24 So anything other than attendance has to be reviewed and
 25 approved by a manager, you know, before --

1 Q Okay --
 2 A -- that --
 3 Q But we heard testimony from an actual manager today --
 4 from the assistant general manager and from other supervisors
 5 saying that the manager's approval is not required. Correct?
 6 A It is required.
 7 Q But you heard that from --
 8 A I heard. But it is required.
 9 Q Okay. So is it your belief then, and your testimony that
 10 the assistant general manager, one of the operations manager,
 11 and the two other supervisors were incorrect?
 12 A Correct.
 13 Q Okay. And the managers --
 14 A They are incorrect. That's what I'm saying.
 15 Q They are incorrect.
 16 A Uh-huh.
 17 Q Okay. So you're right?
 18 A I am right.
 19 MS. COTE: Briefly. When the witness said this he was
 20 pointing at Union's Exhibit 2, just for the record.
 21 Q BY MR. HARVEY: You testified before that you do not have
 22 authority to discipline without a manager's approval?
 23 A Correct
 24 Q Are you the only supervisor that does not have that
 25 authority?

1 A No supervisors -- to my knowledge no supervisor has any
 2 authority to discipline employees.
 3 Q And what do you base that knowledge on?
 4 A We talk about business and how we do business. We have
 5 meetings. We have informal talks.
 6 Q But again, you did hear the supervisors today say they do
 7 not require the approval?
 8 A I hear that.
 9 Q Okay. You indicated that before you do research in the
 10 employees personnel files to see what step they're at in the
 11 disciplinary process --
 12 A It's not in the employees files. It is a chart that's
 13 sent by the HR to most ever email person -- anybody who has
 14 email access from Standard Parking.
 15 Q And why do you do that research?
 16 A We don't do research. I will go to that chart, check if
 17 that person, you know, where the level of the appropriate
 18 disciplinary warning is.
 19 Q Why do you do that?
 20 A Because I'm instructed to write that person up.
 21 Q Okay. So you're making a recommendation on the discipline
 22 then?
 23 A I am recommending if somebody is on first warning, I can,
 24 just because I was told to do I can't just do a first one day
 25 suspension. I have to follow the progressive discipline, and

1 would have to give him the next step.

2 Q So you're increasing the discipline.

3 A I'm not increasing it.

4 Q Well what are you doing?

5 A I'm following the procedure.

6 Q So then is it that you're issuing the same level of
7 discipline or what's happening?

8 A I'm not issue -- I'm requested or instructed by a manager
9 to issue the -- I will rephrase this. I am not issuing. I am
10 preparing the body of the write-up. When I prepare the body of
11 the write-up, I have to know where the level of that employee
12 and that particular infraction.

13 Q And you're sitting -- and your testimony, again, is that
14 the manager -- does the manager have to give the employee the
15 written warning?

16 A Yeah. Nine out of ten, they're the ones who call them,
17 pull them out of their lanes -- you know, their job assignment
18 and issue them. And sometimes they will say, "Can you go ahead
19 and issue this." Before that they have to sign it. They have
20 to, you know, go through HR and then they will send that, you
21 know, write-up to us. And then we will issue that to the
22 employee.

23 Q So you issue it then?

24 A Yes. The already completed write-up.

25 Q Now I was a little confused and perhaps I didn't hear what

1 you were saying correctly. But I thought you made the
2 distinction between attendance write-ups and other types of
3 disciplinary write-ups. And I thought you said the manager
4 doesn't always approve the discipline.

5 A That's not what I said.

6 Q Okay.

7 A There are two types of, you know, disciplines.
8 Disciplinary warnings. Attendance related.

9 Q Uh-huh.

10 A Non-attendance related. What I was saying is if it is
11 attendance related, because we keep track of the attendance
12 record of employees that we oversee. Every month we have a
13 meeting, we give them their copy of their attendance tracking.
14 So my team members know what their attendance point is. So
15 let's say they call out today and they know at that particular
16 attendance level -- like let's say 15, they know they get a
17 first notification. So there's no dispute. Because 15
18 warrants you a first notification. It's stated on the
19 attendance policy of Standard Parking. And we communicate them
20 about that. It is posted everywhere on the satellite offices.
21 If you have 15 points you get first notification. From 13 to
22 18. So anywhere between that. So when you issue them, they
23 don't say, "I'm not going to sign this because I don't believe
24 that I have, you know, 15 points." Like I said they are well
25 informed about their attendance points. So that is why I feel

1 comfortable issuing them and send that to the managers.

2 When it comes to another diplomacy warning, all I have to
3 do is make sure that I have document to present the operation
4 manager. So the manager can decide what to do with that
5 information. If I see somebody sleeping, I will document that.
6 If I see somebody on the phone. Document it.

7 Q So it sounds to me like then it's not necessarily a
8 policy. It's what you're more comfortable with. You said
9 you're comfortable issuing attendance without supervisory
10 approval, but you're not as comfortable with the other stuff.
11 So it's really your own discretion in when you issue a --

12 A It is not my own discretion I try to put it in
13 prospective. Attendance -- the reason I said I'm comfortable
14 issuing them is because it is -- the employees know where their
15 attendance is. If you try to write somebody up for, let's say,
16 sleeping They will probably say, "Oh, I didn't sleep." Or
17 any other infraction, there's always something that the
18 employee will say. They will grieve it. We never had any
19 grievance meeting in Standard Parking in regards to attendance,
20 because it's a straight forward procedure. So that's what I
21 meant.

22 Q What I'm saying, though, is there is no policy on that.

23 A There's --

24 Q That's just your practice. Correct?

25 A Yes.

1 Q Because we heard other managers -- or other supervisors
2 say that they can issue discipline without having to get
3 approval from a manager. And that they do it.

4 A Then I say that they are wrong.

5 Q Okay. But you heard them say it. You heard them say
6 that?

7 A I did hear them say that.

8 Q So we're talking about how you do things compared to
9 how --

10 A Yeah. I made, you know, a distinction The only time
11 that I do that is when it comes to attendance. Any other
12 disciplinary warning has to come from a manager They are the
13 ones who call the judgment call.

14 Q Based on your own personal facts?

15 A Based on the evidence that I provided.

16 Q Correct. But you --

17 A And it's my understanding --

18 Q -- take that approach --

19 A It's my understanding that every other supervisor does
20 that.

21 Q But there's no policy lining that up?

22 A There is a policy. We have to have the documentation
23 supporting any write-up.

24 Q And what policy is that?

25 A Documentation.

1 Q What policy is the -- is that documentation requirement
2 set up?
3 A Disciplinary warning policy.
4 Q And where would I find that?
5 A You can find it on SOP. You can find it on employee
6 handbook. I have Standard Parking employee handbook in my --
7 somewhere.
8 Q So you have a copy of that policy that says you have to
9 get manager approval before you can issue discipline?
10 A No. That -- I'm talking about documentation. You have to
11 have the documentation before you issue somebody a write-up
12 Q And can we see that policy?
13 A It's not a policy. I was saying it was in the employee
14 handbook. Standard Parking employee handbook.
15 Q Okay. Well do you have a copy of it?
16 A Yeah.
17 MR. HARVEY: Can I look?
18 HEARING OFFICER SVELAND: Sure.
19 (Counsel confer)
20 HEARING OFFICER SVELAND: Because if you're going to --
21 if you're going to ask him questions about it, the I guess you
22 should offer it and see if you can lay a foundation for it.
23 MR. HARVEY: Okay. Should we make copies or --
24 HEARING OFFICER SVELAND: Yeah. I guess we will need
25 copies.

1 THE COURT REPORTER: Should we go off?
2 HEARING OFFICER SVELAND: Sure. Let's go off the record.
3 (Off the record at 5:40 p.m.)
4 HEARING OFFICER SVELAND: Begin your questioning.
5 Q BY MR. HARVEY: Okay. Mr. Kuture, we were talking before
6 about the policies governing the issuance of discipline, and I
7 was asking where -- what policy required documentation for
8 discipline. And are you aware of such a policy?
9 A I -- I tried to reiterate what I meant. If I mentioned
10 policy, what I meant was we have -- when we issue a
11 disciplinary warning, we are always required to present the
12 documentation. There is no specific policy that I have read on
13 the past until we have, you know, received this e-mail.
14 Q Oh-huh.
15 A But we always -- we are always required to present
16 documentation when we are required or requested or, you know,
17 authorized to write somebody up.
18 Q Okay.
19 A So without it, we don't have any basis. We can't -- we
20 can't prepare the write-up, we can't issue the write-up. If we
21 do, then it will eventually be grieved and --
22 Q But isn't it -- isn't it fair to say that the reason the
23 documentation or -- if the requirement exists, it's to
24 substantiate the allegations in the --
25 A Correct.

1 Q -- document?
2 MS. COTE: Objection. This is argument. This -- there's
3 no foundation that this individual knows why the policy was
4 designed by the company the way it was -- is.
5 MR. HARVEY: Well, he just testified there is no policy.
6 THE WITNESS: I didn't --
7 MR. HARVEY: So --
8 THE WITNESS: -- say there's no policy. That -- I said I
9 am not aware of or I didn't come across any policy posted,
10 given --
11 HEARING OFFICER SVELAND: Okay.
12 THE WITNESS: -- to me.
13 HEARING OFFICER SVELAND: Okay, okay. He'll ask you the
14 questions and you can answer them.
15 You were objecting as to foundation? Is that what you
16 said?
17 MS. COTE: Yes. There's no foundation that this man would
18 know why the company designed its procedure -- you don't want
19 to use the word policy -- the way it did. And I'd also like
20 for clarification, again, the gesture to Union Exhibit 2 when
21 the testimony was going on.
22 HEARING OFFICER SVELAND: Okay. I think he -- first of
23 all with the -- with the pointing to Union Exhibit 2, I think
24 he mentioned that one and has clarified that for the record.
25 It's already on there that it --

1 MS. COTE: He just mentioned it again.
2 HEARING OFFICER SVELAND: Okay. Well, then we'll --
3 you'll have your chance to re-clarify that on -- when you --
4 when you talk to him again.
5 As far as foundation goes, you know, Employer, if you want
6 to ask how he might know this and then that might give it more
7 credibility.
8 MR. HARVEY: Okay.
9 HEARING OFFICER SVELAND: So let's leave it at that and
10 continue the questions.
11 Q BY MR. HARVEY: Do you know why the company would want
12 documentation related to disciplinary documents?
13 A Yeah. But one -- one of the reasons is to validate
14 whether it's a legitimate write-up, you know. Because you
15 can't just write somebody up just because you don't like him or
16 he's not your favorite employee or whatever the case might be.
17 The second reason is, we're dealing with, you know, the
18 collective bargaining agreements with the Union employees. So,
19 like I said, other than attendance, we always -- I would say 99
20 percent of the time employees grieve any write-up whatsoever.
21 So without documents -- providing your documentation, we
22 will end up losing that, you know, grievance. The Company will
23 lose the grievance. We will lose our basis to enforce the
24 company policy with those employees. So if we have
25 documentation, then they -- they can grieve it. They have the

1 right to grieve. Because we have documentation, we have
 2 witnesses, we have a paper trail, then we will present those
 3 documentation at the grievance meeting which are already on the
 4 write-up. And then, you know, that grievance meeting will --
 5 will pass, so --
 6 Q Now, you said before that you don't have any authority to
 7 issue discipline in your own discretion, correct?
 8 A Correct.
 9 Q Have you ever seen the Collective Bargaining Agreement
 10 between Standard Parking Corporation and SEIU Local 105?
 11 A I have seen it.
 12 Q Have you received a copy of it?
 13 A I have received a copy of it.
 14 Q Have you read it?
 15 A I tried to read it to understand how I -- you know, who
 16 I'm dealing with and how I could be, you know, a good
 17 supervisor by understanding the Collective Bargaining Agreement
 18 between Standard Parking and an employee.
 19 Q So do you understand that the Collective Bargaining
 20 Agreement is a legally binding agreement between the company
 21 and the Union?
 22 A A legal binding agreement?
 23 Q Yes.
 24 A Correct.
 25 Q Okay. And it sets forth various work rules, correct?

1 A Work rules?
 2 Q Or take that -- strike that.
 3 A Can you -- yeah. Okay.
 4 Q It sets forth procedures --
 5 A Procedures?
 6 Q -- as it relates to the employees?
 7 A In some senses, yes.
 8 Q So, for example, with discipline, are you aware of whether
 9 there is a section on disciplining the employees in the
 10 Collective Bargaining Agreement?
 11 A I believe there is something, but I -- I don't remember
 12 word by word, you know.
 13 Q Well, if the -- if the collective bargaining -- if the
 14 Collective Bargaining Agreement says something, does that
 15 govern the relationship between the company and the employees?
 16 MS. COTE: Objection to -- to the extent it asking for a
 17 legal conclusion, I object. If it asks for his opinion, if he
 18 has one, he can answer. But you were asking that --
 19 MR. HARVEY: Fine. I'll --
 20 MS. COTE: -- whether it's --
 21 MR. HARVEY: I'll rephrase it.
 22 MS. COTE: -- binding, and that's improper because --
 23 HEARING OFFICER SVELAND: I think you can rephrase.
 24 Q BY MR. HARVEY: Do you understand the agreement to set
 25 forth certain requirements that the company has to follow

1 related to the employees that are covered by the agreement?
 2 A Correct.
 3 Q Okay. Now, in terms of discipline, what -- what happens
 4 in -- have you ever had a situation where there was a fight
 5 between the employees?
 6 A I heard. No, I wasn't on that --
 7 Q Have you ever come across a situation that required
 8 immediate -- immediate disciplinary action?
 9 A Yes.
 10 Q What is an example of that?
 11 A It was sleeping on a booth.
 12 Q Okay. What did you do?
 13 A I called another supervisor who happened to be with me.
 14 So we went out to the booth, we watched that person sleeping
 15 for five -- five minutes, six minutes and we knocked on the
 16 door, he wake up You know, we told him that he cannot sleep
 17 on the -- while he's on the job or on the clock unless he's on
 18 break. So we went back, I wrote my statement, I have him write
 19 his statement, called the -- the manager on duty, notified him,
 20 you know, that we found him sleeping. And the manager said,
 21 "Okay. Close him and send me" -- "send him to, you know, the
 22 main office" --
 23 Q Okay.
 24 A -- with the testimony that we provided." And the last
 25 thing I know, that person was sent home. He was suspended for

1 one day.
 2 Q So you didn't -- you didn't have to consult your manager
 3 to take action in that situation?
 4 A Take -- what do you mean action?
 5 Q Like you --
 6 A To write a statement?
 7 Q Well, you actually -- you confronted the employee? You
 8 addressed him or her right there, correct?
 9 A Oh, before I confronted him or --
 10 Q As I understand, you saw the employee sleeping, you got
 11 another supervisor and you went and confronted the employee?
 12 A Yes.
 13 Q You didn't have to go to a manager first to do that?
 14 A No.
 15 Q Okay. Now, you mentioned before -- Ms. Cote was asking
 16 you questions about if you have a shortage of staff members and
 17 you said that you can't fill in without a manager's approval or
 18 you'll be in trouble?
 19 A Correct.
 20 Q Why do you conclude that you would be in trouble if you
 21 filled that out without a manager?
 22 A About two -- just before Standard took over, I couldn't
 23 get a hold of the manager. He -- that would be -- happen to be
 24 the manager -- the operation manager who testified this
 25 morning. He was on the field doing inventory, license for

1 inventory. So I said, "Now." We always have six cashiers
2 every first day. So I will go ahead and call people, you know,
3 ask people to stay and then I called six people. If you check
4 the last four weeks of Thursdays, we have six people, that I
5 put people and I went home.

6 And I came back the next day and another manager called me
7 to her office and she said, "Hey, Asfaw, you did the schedule
8 yesterday?" "I did, yes." "Okay Did you consult your" --
9 "with an operation manager before you put those overtime
10 people?" I said, "No. Why?" "Well, he was busy you know,
11 working outside. Did you call him?" I said, "No, I didn't."
12 "So, why did you put those people?" "Because it's important.
13 We need those people. Thursday's a busy day. And I figured
14 putting more people would" -- "would be, you know, helpful for
15 the operation." And she said, "Well, yeah, but you have to
16 have authorization from a supervisor. And I need you to sign
17 this write-up." And I signed that write-up.

18 Q And that was when you worked for Ampco?

19 A Yes.

20 Q Okay. But did you have -- you have had that --

21 A I didn't -- I didn't --

22 Q That was not with Standard Parking, correct?

23 A Yeah. I didn't do any other staffing without getting a
24 prior manager approval after that incident, so --

25 Q Okay. So --

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1 A -- I learned my -- no. That is way.

2 Q So based on your experience with Ampco, you determined
3 that you needed authorization with Standard Parking, correct?

4 A Yeah. We have the same managers. Most of them came to
5 from Standard Parking -- I mean, when Standard Parking took
6 over us, managers, supervisors. And there were new managers,
7 promoted, hired after that, but most of the managers, most of
8 the staffs (sic) are carried over from Ampco. So we followed
9 the same SOP, which is the standard operation procedure. We
10 follow the same, you know, Collective Bargaining Agreement. So
11 pretty much it's the same.

12 Q So when -- when Standard Parking took over, did they put
13 their own policies and procedures in place?

14 A Yes, they did.

15 Q And are you aware of a policy that requires you to get
16 approval before filling a staffing shortage?

17 A If I read it -- if you're asking me did they give me one,
18 that's -- that's no.

19 Q There was no policy?

20 A I don't say there is no policy; I said nobody gave me a
21 policy stating that I have to have a manager approval.

22 Q Okay.

23 A But, like I said, most of the time -- even the work
24 cultures are -- the mutuals, you name it, you know, other
25 FMLAs, LOAs, vacations, overtime rules, mutual, you know,

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1 policies, procedures, are carried over from that Ampco to
2 Standard Parking.

3 Q Right. I understand that there may be some simpler rules,
4 but I just wanted to make it clear that there is no policy?

5 MS. COTE. Objection. That mischaracterizes his testimony.

6 HEARING OFFICER SAVELAND: I think at this point the
7 decision writer will probably characterize his testimony, so
8 let's just move on.

9 Q BY MR. HARVEY: Okay. You indicated before that you
10 haven't been consulted regarding hirings, correct?

11 A That is correct.

12 Q But you don't know if other -- do you know if other
13 employees have been consulted?

14 A Like I said, we have -- we talk to each other, you know.
15 I have never heard (sic) anybody saying they are consulted by
16 managers, general managers, or assistant general manager or HR
17 that they are consulted on the hiring process.

18 Q So did you hear testimony earlier today that that does, in
19 fact, happen?

20 A I didn't hear anybody say that.

21 Q You don't recall?

22 A I don't recall that.

23 Q So do you know definitively that supervisors are not
24 consulted in the hiring process?

25 A I would say yes.

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1 Q Again, I apologize for jumping around, but moving forward
2 to the incentive program, we talked about that a little bit.
3 And it is correct that there's a place for you to put comments,
4 for the supervisors to put comments?

5 A On the incentive database?

6 Q Yes.

7 A Yes, there is.

8 Q So you -- so you can't increase incentive points for acts
9 that are not on the incentive list?

10 A No, I can't.

11 Q If you reported in the comments that an employee had done
12 a fantastic job -- I think you said cleaned up the break room
13 -- if you put that in there, would that -- do you know if that
14 would --

15 A Nope.

16 Q -- could be used to give incentive points by a manager?

17 A Nobody would accept it. And the new incentive policy --
18 you got incentive, you know, policy. Only managers can
19 instruct us to put more incentive points and justify that on
20 the comment section.

21 Q And they don't consult with you at all?

22 A They will tell us, "Can you go ahead and give this person
23 five additional incentive points for cleaning a booth," or "a
24 vehicle"? And then I would say, "First standard six, cleaning
25 booth, five additional points."

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1 Q Do they ask you for your input on employees who are doing
2 a good job?
3 A No, they don't.
4 Q You said -- you mentioned before the management, and again
5 used in the example of cleaning a break room that a manager
6 could give five extra points, for example. You said that there
7 was a -- you referred to a formula for giving extra points.
8 What is that? Are there guidelines for that formula?
9 A Can you ask that question again?
10 Q When we talked about managers awarding extra points, extra
11 incentive points, to a person for doing a good job --
12 A Uh-huh.
13 Q -- you mentioned that there was a formula that they could
14 use for giving the extra points. Do you know what that formula
15 is?
16 A I don't recall saying there's a formula for giving extra
17 points.
18 Q When you were talking about giving the bonus points,
19 what -- what criteria are used? Do you know?
20 A Okay. There are criterias (sic) for incentive bonus --
21 Q And --
22 A -- point system.
23 Q -- we know that they've established one --
24 A Yeah.
25 Q -- but for the extra ones, do you know what --

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1 A No. No, I don't know.
2 Q So just random managers just give --
3 A They can say ten, they can say five.
4 Q I won't belabor that.
5 Okay. You talked before about the meetings, the team
6 meetings that you hold and that you get information from
7 managers and that you -- you had certain discussions with the
8 employees. What's the purpose of those meetings?
9 A It's to pass on information, new procedures and the
10 policies that came in -- on board. If the management wants the
11 employees to know those informations, then -- because we do
12 meetings every month, then we will, you know, give those agents
13 -- that and we will address those with the -- of team members.
14 Q Okay.
15 A They're a -- a good example is if we -- a very good
16 example: We had a convention in 2008 when the Democratic by --
17 you know, we had a convention then and we expected a lot of
18 customers coming in and, you know, we had a lot of trainings
19 and meetings with employees to boost their professionalism,
20 customer service skill in order to be more courteous and
21 helpful for those new customers coming through the airport. We
22 have new construction happening at the airport. Also we relay
23 those informations to the cashiers because customers obviously
24 oftentimes they -- if they get lost, they come to the booth,
25 ask them how they could -- they could go back to, you know,

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1 this level or this side.
2 Q Okay.
3 A So --
4 Q So you're the company representative that's responsible
5 for disseminating that information to the employees that you
6 supervise then?
7 A Correct.
8 Q We talked also about the grievance process and you said --
9 you testified that you can't resolve a grievance by yourself?
10 A Correct.
11 Q You said only the human resources, the general manager or
12 the agent can resolve grievances. Are you participating in the
13 grievance process?
14 A Correct.
15 Q And do you give input to those managers?
16 A Yes. The same input that I give before that write-up was
17 issued.
18 Q So they're relying on -- are they relying on what you tell
19 them? Do you know?
20 A They -- they rely on what is already documented.
21 Q And then you prepare that documentation?
22 A Yeah. I -- if I have to be on that meeting, if I am the
23 one who presented those documentation.
24 Q Okay.
25 A Without me, that meeting would be -- that employee would

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1 win.
2 Q Okay. And also you had been asked before if you're
3 familiar with the Collective Bargaining Agreement. Have you
4 read the grievance procedure in there?
5 A Say that again.
6 Q Have you read the grievance procedure in the Collective
7 Bargaining Agreement?
8 A Yeah, I have, but I -- I don't recall every, you know,
9 paragraph or --
10 Q Okay.
11 A But I have the general -- I have an idea.
12 Q What is your understanding of a step-one grievance?
13 A Step one, when employees grieve, they will go to the Union
14 and the Union will submit a grievance to the HR. If they can
15 resolve it with the HR manager, the HR generalist, then they
16 will, you know, branch out to the -- another meeting with the
17 general manager.
18 Q Now, if I represent to you that the Collective Bargaining
19 Agreement authorizes supervisors to conduct the step-one
20 grievance, do you think I'd be incorrect?
21 A Say that again.
22 Q If I -- if I represent to you that step one of the
23 grievance process authorizes supervisors to hear and adjust the
24 grievance, would I be incorrect?
25 A Yeah, you'd be incorrect.

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1 Q Okay.

2 A Because my understanding is the first grievance, for me,

3 my understanding, is between the Union employee and the human

4 resource.

5 Q And what is your understanding based on?

6 A The Collective Bargaining Agreement.

7 Q Okay.

8 MR. HARVEY: Now, do you want me to put the whole

9 collective bargaining agreement into evidence?

10 HEARING OFFICER SAVELAND: Yes.

11 MS. COTE: If you've got it, sure.

12 MR. HARVEY: I do have that. We may not have attached it.

13 HEARING OFFICER SAVELAND: Ms. Cote, have you seen the

14 collective bargaining --

15 MS. COTE. No, ma'am.

16 HEARING OFFICER SAVELAND: -- agreement?

17 I assume you don't have copies?

18 MR HARVEY: I -- I did not intend to introduce this.

19 HEARING OFFICER SAVELAND: Okay.

20 MR. HARVEY: I apologize.

21 HEARING OFFICER SAVELAND: Why don't you take a look at it

22 and make sure you're going to introduce it.

23 MR. HARVEY. Yeah. I --

24 MS. COTE: Oh, was -- this handbook was not marked.

25 MR. HARVEY: Yeah. Well --

1 HEARING OFFICER SAVELAND: It never --

2 MR. HARVEY: -- I never offered it into evidence.

3 HEARING OFFICER SAVELAND: Yeah.

4 MR. HARVEY: It's actually -- I looked at it. It's not

5 even relevant to this discussion today.

6 MS. COTE: Oh.

7 MR. HARVEY. That's for salaried employees.

8 (Counsel confer)

9 (Hearing Officer exits room to make copies)

10 (Counsel confer)

11 HEARING OFFICER SAVELAND: Okay. Back on the record?

12 THE COURT REPORTER: Yep.

13 Q BY MR. HARVEY: All right. I have -- the Hearing Officer

14 has handed you a document that we will call Employer

15 Exhibit 14, and this is the Standard Parking Corporation and

16 Service Employee International Union Local 105 Collective

17 Bargaining Agreement with the effective date of October 16th,

18 2011. Do you need a minute to look at that, Mr. Kuture?

19 A Yes?

20 Q Do you need a minute to look at that?

21 A I'm sorry. Say that again.

22 Q I was just identifying the document that we handed you.

23 Do you need a minute to look through it?

24 A Yes.

25 Q Okay. Let me know when you're done.

1 A Sure. Okay.

2 Q I'd like to direct your attention to Article 18 which is

3 on page 21.

4 A Uh-huh.

5 Q If you look down below, B at step one, it talks about the

6 process for grievances. And in there it says that when an

7 employee files, they -- and it speaks for itself. But it

8 indicates when an employee files a grievance, the employee's

9 immediate supervisor shall meet within five working days with

10 the grievant. Do you see that?

11 A Yes, I do.

12 Q Okay. So then based on this, is the expectation that

13 you're the one who meets with the employee when they file a

14 grievance?

15 MS. COTE: No.

16 THE WITNESS: No.

17 MS. COTE: Objection. The expectation is what? I don't

18 understand where this is going.

19 Q BY MR. HARVEY: Well, do you understand the process is,

20 for a step-one grievance, that you -- that you meet with the

21 grievant to -- to hear the grievance?

22 A I do not have any knowledge whether or not union employees

23 would meet with their immediate supervisors. You know, it says

24 within five working days. My understanding and my knowledge --

25 probably every other supervisor knows -- that whenever there's

1 a grievance, whenever there's a write-up, if the union

2 employees want to grieve, they will go to the Union

3 representatives and within 10 days they have to submit a

4 written statement as to why they are grieving and then they

5 will sit down with HR.

6 Q And what is that based --

7 A So.

8 Q What policy is that based on?

9 A That's how -- what we do there. And I'm telling you how

10 the grievance is handled in a Standard Parking at DIA.

11 Q You're saying through your experience?

12 A I have never seen -- in five years, I have never seen any

13 supervisor sitting down with an employee who's been written up,

14 try to resolve an issue, a write-up, in five years.

15 Q You haven't seen that, but that doesn't mean it hasn't

16 happened, correct?

17 A But I -- I -- it would be unlikely for me to miss one

18 incident in five years if this was in place or if this is the

19 understanding that all other supervisors have.

20 Q Okay. So, again, you can speak for yourself but not for

21 the other supervisors.

22 Now looking at that step one that's set forth in this

23 agreement that covers the -- the employees that you supervise,

24 looking down to step two, it says, "If the grievance is not

25 resolved in step one, the Union shall present the written

1 grievance to the resident manager." So that then -- step two
 2 occurs if the supervisor can't resolve the grievance at step
 3 one, correct?
 4 A My understanding is if step two occurs, when the grievance
 5 does not -- is not resolved with the human resource and the
 6 Union with the person who was written up, it will jump in to
 7 the -- the general manager. Because I have been on the
 8 grievance meeting. They involve me because I am the person,
 9 you know, that has submitted those documentation. I will be
 10 involved, I'll be on the meeting, on the grievance meeting if
 11 for some reason the grievance did not -- you know, if it is not
 12 in favor of the employee, it will automatically jump to the
 13 general manager. So this is what I know. This is what I
 14 understand.
 15 Q Okay. And you did have an opportunity to look at this?
 16 A Now?
 17 Q Yes.
 18 A Now, yes.
 19 Q Okay Is your understanding consistent with what this
 20 contract says?
 21 A No.
 22 Q Okay. All right. Moving forward --
 23 A Oh, can I ask a question?
 24 HEARING OFFICER SAVELAND: What -- well, what did you need
 25 verification --

1 THE WITNESS: This was effective October 16th, 2011. Do we
 2 know if we have any different article or, you know, grievance
 3 procedure before that, before this grievance?
 4 UNIDENTIFIED SPEAKER: I only brought the current one.
 5 MR. HARVEY: Yeah.
 6 THE WITNESS: This is the current one?
 7 UNIDENTIFIED SPEAKER: Correct, it's current.
 8 THE WITNESS: So I was wondering if the grievance procedure
 9 is different on the old one, because I haven't seen this new,
 10 you know, bargaining agreement.
 11 HEARING OFFICER SAVELAND: But at this point your testimony
 12 is that your understanding is different from what you read?
 13 THE WITNESS: Correct.
 14 HEARING OFFICER SAVELAND: Okay. And what you've
 15 experienced?
 16 THE WITNESS: Uh-huh.
 17 HEARING OFFICER SAVELAND: Okay.
 18 Q BY MR. HARVEY: All right. We -- we discussed earlier
 19 what had initially been called Union Exhibit 1, but then you
 20 gave us a document and it's Union Exhibit 2. Okay. And you --
 21 is it your understanding that this is a policy of the company?
 22 A I will say rather it's a procedure that everybody on that
 23 list needs to follow.
 24 Q Okay. And --
 25 A I -- if you're asking me how to define procedures,

1 policies, I would have a hard --
 2 Q Okay.
 3 A -- time doing that.
 4 Q Well, we'll call it a procedure just for the sake of ease.
 5 A Okay.
 6 Q What are the specific requirements of this procedure?
 7 A That we have to have the documentation if -- before an
 8 employee is written up and that documentation needs to be
 9 submitted to HR and/or the general manager. And they will
 10 just, you know, do the final decision whether or not that
 11 person needs to be, you know, disciplined. Or this is -- this
 12 is sent not just for supervisors, you know, also for managers.
 13 So -- so, like I said, managers are the one (sic) who authorize
 14 a write-up, do the write-up; sometimes we prepare the write-up
 15 and they issue the write-up, then they prepare the write-up and
 16 we will -- they will tell us to issue the write-up. So they --
 17 they cannot issue a write-up before they consult with HR and/or
 18 the general manager with the -- the documentation.
 19 Q That's your understanding of how discipline is issued now?
 20 A Of the -- of the e-mail.
 21 Q How is it enforced, this procedure?
 22 THE HEARING OFFICER: Well, hold on one second.
 23 Of the what?
 24 THE WITNESS: The -- the e-mail that I'd received.
 25 HEARING OFFICER: Union's 2 --

1 THE WITNESS: Uh-huh.
 2 HEARING OFFICER: -- is that what we're talking about?
 3 Okay
 4 MS COTE: Is that a "Yes"?
 5 THE WITNESS: I'm sorry. Your question?
 6 MS COTE: You just said, "uh-huh."
 7 HEARING OFFICER SAVELAND: Union's 2, is that --
 8 THE WITNESS: Uh-huh.
 9 HEARING OFFICER SAVELAND: -- the document you're --
 10 THE WITNESS: Yes.
 11 HEARING OFFICER SAVELAND: -- referring to?
 12 THE WITNESS: Yes. I said yes. Union 2.
 13 HEARING OFFICER SAVELAND: Okay.
 14 Q BY MR. HARVEY: Do you know why this e-mail was issued?
 15 A I can guess.
 16 Q Well, I mean, do you have any basis of -- for knowing what
 17 this -- the reason for this was?
 18 A No. I can only guess.
 19 Q And you say you don't know how this is enforced, this
 20 procedure was enforced?
 21 A Why this was enforced?
 22 Q How is it enforced?
 23 A How?
 24 Q Yep.
 25 A It says on the write-up -- on the -- on the e-mail.

1 Q Okay. So -- but you've seen the -- the -- you were here
 2 today for the testimony and you've also seen exhibits, right?
 3 A Correct.
 4 Q You've seen the Employer's Exhibits 9, 10, 11, 12 and 13?
 5 They're all disciplinary --
 6 A Uh-huh.
 7 Q -- documents?
 8 A Correct.
 9 Q Now, the date on this -- this e-mail from Bobby Neely was
 10 June 20th, 2011?
 11 A Correct.
 12 Q And if you read this thing, literally it says, "No
 13 disciplines to be issued without approval from Isaac Kilgore
 14 and human resources"?
 15 A Correct.
 16 Q Okay. So -- so based on my reading of this --
 17 A Uh-huh.
 18 Q -- it was that you can't do anything unless you have both
 19 of their approval?
 20 A Correct.
 21 Q Now, looking, for example, at Employer Exhibit 13 --
 22 A Uh-huh. Okay.
 23 Q -- do you see approval from Mr. Kilgore on there?
 24 A No.
 25 Q Do you approval from the human resources department on

1 that?
 2 A No.
 3 Q And what is the date of that discipline?
 4 A That was March 15th of 2012.
 5 Q So, it was after this e-mail?
 6 A Correct.
 7 Q And looking at, let's say, Employer Exhibit 12, that's
 8 another disciplinary document; do you see any approval from
 9 Mr. Kilgore on that?
 10 A Not on this paper.
 11 Q Do you see any approval from -- from the human resources
 12 on that?
 13 A Not on this disciplinary warning.
 14 Q Okay. And what was the date on that one?
 15 A That was 19 -- March 19 of 2012.
 16 Q Okay. So then isn't it true that this policy isn't
 17 followed, this procedure is not followed?
 18 A You mean -- no. This -- my understanding is this policy's
 19 being followed. The -- the fact that you don't see signatures
 20 of either Bobby, the human resource, or Isaac on this write-up
 21 doesn't mean that it is not followed. My understanding is that
 22 those people will go to HR or Mister -- Isaac to get an okay or
 23 an authorization before they issue this write-up. Even though
 24 you don't see it here, it doesn't mean that they did not get an
 25 approval from a manager.

1 Q When we actually had the -- the people in here today who
 2 issued some of that discipline and they how they issued the
 3 discipline, correct?
 4 A They also indicated that they run to human resources
 5 office to, you know, get approval or get an okay.
 6 Q Provide a copy is what --
 7 A Well, yeah, they put it that way, but my understanding is
 8 not -- that is not the correct, you know, statement.
 9 Q Have you issued any discipline since June 20th, 2011?
 10 A Nope.
 11 Q Okay So you're -- so you haven't had to follow this
 12 procedure?
 13 A Yeah. I didn't have to write anybody up. Everybody was,
 14 you know, doing their best, you know, they were doing what they
 15 are supposed to do so --
 16 Q But you don't know that -- you don't know what other
 17 supervisors have done firsthand?
 18 A Like I said, we always discuss, you know, matters around
 19 the work area.
 20 Q Who are "we"?
 21 A Supervisors.
 22 Q Okay. So who -- who specifically?
 23 A Lane supervisors, traffic supervisors, audit supervisors,
 24 finance supervisors, LPI supervisors.
 25 Q Okay. So can you just -- give me like -- give me one

1 person?
 2 A Yeah. I -- I discussed with other lane supervisors about,
 3 you know, the disciplinary warning that they issued per the
 4 request of a manager. Sometimes they don't agree and they do
 5 it. I have talked to audit supervisors. The audit supervisor,
 6 that he was instructed to, you know, prepare a write-up and --
 7 and he did it even though he doesn't agree with it. So that
 8 was informal discussion. But I -- we had -- you know, we had
 9 those conversations now and then.
 10 Q Okay. Has any member of management told you -- outside of
 11 this e-mail here, any member of management told you that you
 12 have to get prior approval from Isaac Kilgore and human
 13 resources before you can issue discipline?
 14 A Well, I have the e-mail. I don't --
 15 Q Aside from that?
 16 A -- need them to tell me. I don't need to tell -- need
 17 them to tell me. I have the e-mail. I have that procedure.
 18 Q Now --
 19 A They know that I could get that e-mail, so I don't think
 20 they would necessarily tell me, you know, that I would have
 21 to -- have to get approval --
 22 Q Uh-huh.
 23 A -- from HR.
 24 Q But just to be clear, you don't know if this procedure is
 25 actually enforced because you haven't done any discipline

1 yourself?

2 A No, I didn't do any discipline myself, correct.

3 Q All right. All right. I'm going to move forward, and I

4 really am coming to the end here.

5 Has your -- you've been working for Standard Parking as a

6 lane supervisor for -- since 2008 and you've recently cross-

7 trained to do traffic supervisory as well --

8 A Correct.

9 Q -- in December of this year? So from that period, from

10 December -- or from 2008 through more or less now, have your

11 duties as a lane supervisor changed?

12 A No.

13 Q So what you were doing in 2009 (sic) is what you are doing

14 now as a lane supervisor?

15 A Yeah, the circumstances have gradually changing, yeah,

16 changing form because of the construction, you know, because

17 of -- yeah, because of the construction, because of the new

18 equipment installation on the exit lanes. But the general --

19 generally we -- we have the same, you know, procedure and the

20 work policy or -- that we follow.

21 Q Okay. I'm going to hand you what I'm marking as Employer

22 Exhibit 15. I'd like you to take a look at that document,

23 please.

24 (Employer Exhibit Number 15 Marked for Identification)

25 MS. COTE: Was the CBA admitted?

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1 And somehow -- I don't know how I got into this situation,

2 because I -- this is a long time ago so I'm trying to -- I have

3 to read it to understand, to get that, you know, memory or

4 picture.

5 Q Sure. But my -- in my uneducated reading on it, it looks

6 like you intervened in the situation, correct?

7 A Yeah Let me read it because this -- this has been a long

8 time.

9 Q Okay.

10 A I --

11 Q Tell me when you're ready.

12 A Okay. This is what I understand: I think probably I

13 was -- I was not there. Maybe this happened in my absence

14 with -- with another supervisor. And -- and I got a call from

15 the human resource to talk to those people, talk to the

16 witnesses and send a statement, and also talk to those two

17 individuals.

18 Q Do you know why human resources called you to do this?

19 A I wouldn't know. It's --

20 Q But you --

21 A -- it's been more than two years' old.

22 Q But you did address the situation between the two

23 employees?

24 A I talked to them.

25 Q And it looks to me that, based on what you wrote, that you

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1 MR. HARVEY: Oh. I'd like to offer the Collective

2 Bargaining Agreement.

3 HEARING OFFICER SAVELAND: Okay. Any objection?

4 MS. COTE: No, ma'am.

5 HEARING OFFICER SAVELAND: Okay. It's admitted.

6 MR. HARVEY: Thank you.

7 (Employer Exhibit Number 14 Received into Evidence)

8 Q BY MR. HARVEY: Did you read that document?

9 A Uh-huh.

10 Q Did you recognize it?

11 A I think so. From about three years ago.

12 Q Okay. What is it?

13 A It was a statement that I wrote to the human resource --

14 the then human resource manager.

15 Q Okay. And why did you write it for?

16 A Because she asked me to write --

17 Q Okay. Well, I'm looking down at the -- the last two

18 paragraphs. There's the big paragraph up top and there's two

19 smaller ones, and you're describing what you did. What -- what

20 was going on in that situation?

21 A Apparently the -- Kwasi said he smelled something and --

22 and, you know, said to Dadale, "You know, you smell bad." And

23 Dadale got very upset and, you know, they were talking and

24 there -- there was another supervisor named Bonaface

25 (phonetic). He got involved and he tried to resolve the issue.

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1 resolved the problem?

2 A Yes.

3 Q Okay. So you had the ability to intervene with the

4 employees and bring a resolution to their dispute?

5 A I talked to them. It's not because I talked to them that

6 they agreed. Because I created an environment for them to

7 understand what happened that day, you know, so I -- I was just

8 liaising between those two and I got lucky and they agreed.

9 Q But you also advised the employees on how they should --

10 A Oh, yeah. It's male to male. This was just male-to-male

11 conversation. I -- after we had that conversation, I pulled

12 him aside, I told him, you know, "You know, this is not the way

13 to treat, you know, females." I would -- I would do that to

14 anybody.

15 Q Okay. And you -- you did that because you're a

16 supervisor?

17 A Not because I'm a supervisor.

18 Q Do --

19 A I did it because I'm a male and I have sisters and wife

20 and a daughter, so --

21 Q But you said that human resources contacted you and asked

22 you --

23 A No, no. I did the last -- I was talking about the last

24 paragraph, what I did with Kwasi later. I said, "But I took

25 the time with Kwasi later and I gave him advice."

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1 Q Do you know of human resources calling non-supervisors and
2 asking them to address disputes between employees?
3 A Non-supervisors?
4 Q Yes.
5 A I wouldn't know.
6 Q Okay.
7 MR. HARVEY: I move this into evidence as Exhibit 15.
8 HEARING OFFICER SAVELAND: Any objection?
9 MS. COTE: No.
10 HEARING OFFICER SAVELAND: Okay. It's admitted.
11 (Employer Exhibit Number 15 Received into Evidence)
12 Q BY MR. HARVEY: All right. And then so moving forward
13 here, I'm going to hand you three pages, a document that I'm
14 labeling as Employer's Exhibit 16 and I'd like you to take -- I
15 believe they're a companion document I'd like you to take a
16 look at those.
17 (Employer Exhibit Number 16 Marked for Identification)
18 MS. COTE Are these to be stapled together then, counsel?
19 MR. HARVEY. You know, I -- I didn't initially staple them.
20 I mean, they don't --
21 MS. COTE: I mean, is this one --
22 MR. HARVEY: It's going to be one document. So if you
23 would like to staple them, you can. I had them as loose leaf.
24 Q BY MR. HARVEY: Did you have a chance to review those?
25 A Yes.

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1 Q Okay Do you recognize them?
2 A Yeah. They're the two different -- well, it's actually
3 the same. It's a resume that I submitted back in 2009 when I
4 applied for the operation manager position that opened up.
5 Q Okay. And you wrote these?
6 A Yes, I did.
7 Q So looking at -- it looks to me like it's a cover page --
8 it's a three-page document --
9 A Uh-huh.
10 Q -- it's a cover page with a two-page resume attached.
11 And, as you just indicated, you were -- you were applying for
12 an operation's manager position?
13 A Correct.
14 Q If you look kind of in the middle of that large first
15 paragraph on the first page there, it says, "My most recent
16 position is a lane supervisor. It has given me two-and-a-half
17 years of supervisory experience in parking operations."
18 A Correct.
19 Q What did you mean by that statement?
20 A They call me a supervisor. A lane supervisor.
21 Q But who --
22 A That's the title that I have.
23 Q Were you calling yourself --
24 A Yeah, that's -- that's the title that I have.
25 Q So did you consider yourself to be a supervisor at that

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1 time?
2 A This is a job application. If they call me a lane
3 supervisor, I call myself a lane supervisor.
4 Q But -- but you --
5 A If you're asking me if I am supervisor per the statutory
6 definition, then that's why we're here.
7 Q Well, but didn't you -- you write that the job has given
8 you two-and-a-half years of supervisory experience?
9 A It is supervisory experience.
10 Q Okay. So you considered yourself a supervisor?
11 A I --
12 MS. COTE: Objection. This is --
13 THE WITNESS: I have that title.
14 MS. COTE: -- asked and answered. He's explained he has
15 the title of supervisor; that's why he put it down. I think
16 we're going over the same ground.
17 MR. HARVEY: Well, I -- I disagree because he's claiming
18 that he has supervisory experience and I want to know what it
19 is.
20 MS. COTE: He --
21 HEARING OFFICER SAVELAND: Well, I think he's -- he's said
22 that he was a supervisor. I think he's -- I think -- you can
23 ask maybe one or two more --
24 MR. HARVEY: That's fine.
25 HEARING OFFICER SAVELAND: -- clarification --

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1 MR. HARVEY: I can move forward.
2 HEARING OFFICER SAVELAND: -- questions, but --
3 MR. HARVEY: That's fine.
4 Q BY MR. HARVEY: Okay. So when you put together this
5 resume and cover letter, were -- were you being truthful with
6 the information?
7 A I was being truthful. Probably I took what they called me
8 in order -- you know, to put it here. I was called a
9 supervisor. I do this -- you know the things that I do and I
10 have to put it here. And that's why, you know, you see it
11 here.
12 Q Okay. Were you being accurate?
13 A To some extent, I would say I'm accurate, you know.
14 Q You're -- and you're inaccurate?
15 A I'm -- I didn't say I'm inaccurate.
16 Q Because I -- okay. So was the information in your resume
17 accurate?
18 A Yes, it is accurate.
19 Q All right. So let's turn to the actual resume itself.
20 And you're talking about your employment history with Ampco and
21 Standard Parking as a lane supervisor?
22 A Uh-huh.
23 Q And look at that first bullet point under responsibilities
24 and accomplishments. And you -- you indicated that you trained
25 subordinates and you assisted them as needed and -- you know,

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1 with various tasks. What -- what does that mean?
 2 A If we have a -- a new cashier's hired, I will go by each
 3 -- they get training. We -- we have -- we will take time to,
 4 you know, familiarize them with the different policies and
 5 procedures, what is expected of them as a cashier; or if they
 6 are assistant supervisors, the same thing. And lane
 7 supervisors, you will be assigned to train a new hire, whether
 8 that is an assistant supervisor or a lane supervisor. So you
 9 can train them what you know, you know, to make them
 10 familiarize (sic) with the work environment. So I have done
 11 that before, so I put that on my resume.
 12 Q Okay. And then moving down to the fourth bullet point,
 13 you're talking about monitoring and supervising cashiers, the
 14 technical accuracy and conforming to company policy. What did
 15 that require you to do?
 16 A It's a standard procedure. For example, if you go out to
 17 the lane to see if cashiers are doing the transaction
 18 correctly. When they process a lost ticket, there is a certain
 19 procedure that they need to follow. Any exit transaction has,
 20 you know -- there's a procedure, and you will make sure they
 21 follow those procedures. It is my responsibility that those
 22 cashiers do that correctly.
 23 Q Okay. And then the next bullet point talks about training
 24 and managing team members. What did you do related to that?
 25 A Trained means cashiers, like I said, in -- on the team

1 meeting. It's not just only conveying, you know, a meeting.
 2 You have to train them on how to escape a tornado if a tornado
 3 happens. And as a safety -- a safety meeting and you will
 4 train them what to do. If a robbery happens, you will train
 5 them in what -- what to do when, you know, a robbery happens.
 6 And it's -- it means we -- I conduct a meeting with team
 7 members. And manage means I manage their attendance, track
 8 down their incentive
 9 Q You indicated here though you managed them on different
 10 customer service skills and achieved significant improvement?
 11 A Yeah. Correct. We had a program -- that was a long time
 12 ago. Okay. Just before I submitted this, we had a program
 13 that was introduced by the -- the now AGM, Kelly Marso
 14 (phonetic), she said we have to at least go to a booth and
 15 follow with cashiers on their customer service skill. You go
 16 to the booth, five minutes, 10 minutes, 15, 20 minutes, you
 17 will so how they treat customers, how they greet them, how they
 18 process them, how they answer the question.
 19 Q Uh-huh.
 20 A You don't say nothing. And at the end of that, you will
 21 pull them off, put a partial lane and address that with them.
 22 "Okay, this is great. You can work on this, improve on that."
 23 So on that period, we've seen a lot of improvement on our team
 24 members, especially in the customer service experience.
 25 Q Okay.

1 A They improved their -- you know, their customer -- this is
 2 why I put this on my resume --
 3 Q All right.
 4 A -- of this particular time, just before probably -- this
 5 is September. Maybe that was in July or June.
 6 Q So, if I understand correctly, you were observing
 7 employees and evaluating their performance?
 8 A You will observe them. If you notice anything that needs
 9 to be discussed, you will discuss with them.
 10 Q And you give them direction?
 11 A And then you go the -- yeah, and then they stay. And the
 12 next week you go there and then see -- you know, check them
 13 again, see if they incorporated the comments that you made.
 14 And they have. And we've seen that change.
 15 Q And what if they didn't?
 16 A You will advise them again.
 17 Q Okay. And that was your responsibility?
 18 A Yeah. You advise them again. And if -- if you have to do
 19 that 10 times, you would do that 10 times.
 20 Q All right. The -- another bullet point just below that
 21 says you supervised cashiers, exit lanes and prepared work and
 22 then in parentheses shift schedules. What does that mean?
 23 A This is where we take -- we revise shift schedules. Like
 24 if I work in the morning, if I'm the break -- breaker
 25 supervisor, it's my responsibility to prepare the next shift

1 schedule.
 2 Q Okay.
 3 A That comes from the master.
 4 Q But you're the one who's actually preparing the schedule?
 5 A Oh, yes. Yeah.
 6 Q Okay.
 7 A Well, it's already prepared. What you do is you make --
 8 you know, if there's -- anybody calls out, then you replace
 9 that. Sometimes people do mutuals, people are on vacations and
 10 people call out on that shift, so you would work with the
 11 operation manager in order to make the adjustment, if that is
 12 approved by the manager.
 13 Q So working with the operation manager, how did that -- how
 14 did that work?
 15 A You -- you will -- we have constant communication with the
 16 manager. If I'm in a satellite office, if somebody calls, I
 17 will call the manager right away. I say, "Hey, X called out.
 18 So do you want me to replace him or leave it as it is?" And he
 19 will ask me, "How many do you have?" "Five." "Okay. We're
 20 good. We can leave it as it is." Now, if we have more people
 21 call out, you will -- like I said, we have constant
 22 communication. "Okay. Go ahead and replace that person." And
 23 then I got the okay, then I will look for people that's on the
 24 seniority That's --
 25 Q So when you --

1 A -- what I meant.
 2 Q -- when you were preparing these work and shift schedules,
 3 were you making recommendations as to the staffing of those?
 4 A That's not a recommendation; that's just making a schedule
 5 off the master.
 6 Q So -- so when you made the schedule, do the -- did the
 7 managers follow that schedule? Did they --
 8 A What do you mean --
 9 Q Did they say not to --
 10 A -- follow?
 11 Q Did the managers say, "Hey, don't do that this way"?
 12 A Oh, yeah. They -- they have the right to do -- to say
 13 that. And they -- they have -- they have said that many times.
 14 They say, "Oh, that's wrong. Why don't you" -- I set it this
 15 way and you put it this way." And then they -- we make that
 16 correction.
 17 Q So then is it -- so then were you not preparing schedules?
 18 I'm not clear here.
 19 A I would say we revise the schedule. That's the best word.
 20 We revise the schedule. The reason I say revise is it's
 21 already made. We -- we are not creating a new schedule. It's
 22 already there. We base on the master schedule and revise it.
 23 If -- if we have -- if all the employees are supposed to be on
 24 the master schedule for that shift, we don't do nothing on that
 25 schedule. Just print out, post it. But that's -- that's

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1 unlikely. Every single shift you have somebody call out, on
 2 vacation, LOA, FMLA or did a mutual with another employee.
 3 Q Okay. So -- so what you're saying is this should say
 4 "revised" instead of "prepared work schedules"?
 5 A Yes.
 6 Q Okay.
 7 HEARING OFFICER SAVELAND: Well, briefly, how often are you
 8 actually making these shift schedules? Is it every time that
 9 you work, you have to do a shift schedule --
 10 THE WITNESS: No.
 11 HEARING OFFICER SAVELAND: -- is there one particular lane
 12 supervisor who does it for the day or for the shift?
 13 THE WITNESS: I work between the -- the hours of 7:00 and
 14 3:30. So I work five days. Pretty much I get like three days
 15 of the five days the breaker or the lead supervisor role. So
 16 those are the days that I revise the schedule; not when I am
 17 assigned to one of those satellite offices.
 18 HEARING OFFICER SAVELAND: Are you still a lane supervisor
 19 when you're in the other satellite --
 20 THE WITNESS: Yeah.
 21 HEARING OFFICER SAVELAND: -- office --
 22 THE WITNESS: Yeah, yeah.
 23 HEARING OFFICER SAVELAND: -- offices?
 24 THE WITNESS: Well, we will become a lead supervisor or the
 25 breaker supervisor.

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1 HEARING OFFICER SAVELAND: And so is it on the master
 2 schedule -- do you know ahead of time the days you're going to
 3 go in and you're going to be preparing that daily schedule?
 4 THE WITNESS: Yes. On the master schedule it says every
 5 Saturday my name and under my name you see a breaker.
 6 HEARING OFFICER SAVELAND: Okay. And how often would you
 7 say that there's a schedule that doesn't need to be touched at
 8 all?
 9 THE WITNESS: That's unlikely.
 10 HEARING OFFICER SAVELAND: And -- okay. So most of the
 11 time --
 12 THE WITNESS: Uh-huh.
 13 HEARING OFFICER SAVELAND: -- you are having to adjust the
 14 schedule?
 15 THE WITNESS: Yes, most, 99 9 percent.
 16 HEARING OFFICER SAVELAND: And do you always have to call
 17 the manager on duty to ask if you can --
 18 THE WITNESS: Always.
 19 HEARING OFFICER SAVELAND: -- fill in spots?
 20 THE WITNESS: Always.
 21 HEARING OFFICER SAVELAND: Okay. So if one or two people
 22 call in, you always double-check with the manager before you go
 23 to the seniority list --
 24 THE WITNESS: Correct.
 25 HEARING OFFICER SAVELAND: -- and figure out who's going to

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1 come in?
 2 THE WITNESS: Right.
 3 HEARING OFFICER SAVELAND: Okay. Is that under -- your
 4 understanding that all those supervisors do that?
 5 THE WITNESS: Correct.
 6 HEARING OFFICER SAVELAND: Okay.
 7 Sorry, Mr. Harvey. You can continue.
 8 MR. HARVEY: Okay.
 9 Q BY MR. HARVEY: When you prepared this resume, where did
 10 you come up with these bullet points? Did you take from a
 11 document or did you make them up? I realize this is a couple
 12 years ago, but how did you come up with these?
 13 A I don't remember. Well, and I don't understand the
 14 question. How do you come up with -- what do you mean?
 15 Q Well, sir, you put -- you know, you put bullet points --
 16 responsibilities and accomplishments and you put bullet points.
 17 What did you --
 18 A I would say maybe I got it off the website and see if that
 19 is actually what I do or close to what I do. That's my answer.
 20 MR. HARVEY: Okay. I have nothing further.
 21 HEARING OFFICER SAVELAND: Real quickly, when you say
 22 "website," what are you referring to?
 23 THE WITNESS: The Standard Parking website specifies, you
 24 know, what lane supervisors do or --
 25 HEARING OFFICER SAVELAND: Okay. So the job

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1 classification?
 2 THE WITNESS: Yeah.
 3 HEARING OFFICER SAVELAND: And so you went through it and
 4 kind of used that? Okay.
 5 Ms. Cote?
 6 MR. HARVEY: I'm sorry. Can I move that into evidence,
 7 please? I didn't make --
 8 HEARING OFFICER SAVELAND: The resume and the --
 9 MR. HARVEY: Yeah, exhibits -- Employer Exhibit 16.
 10 HEARING OFFICER SAVELAND: -- and the cover letter?
 11 Is there any objection?
 12 MS. COTE: No, ma'am.
 13 HEARING OFFICER SAVELAND: Okay. It's admitted.
 14 MR. HARVEY: I'm sorry.

15 (Employer Exhibit Number 16 Received into Evidence)

16 REDIRECT EXAMINATION

17 Q BY MS. COTE: In taking another look at Exhibit 16, sir,
 18 where in the last two pages of this resume do you recite that
 19 you hire employees?
 20 A I don't hire anybody, so I didn't put it anywhere.
 21 Q Where on it does it say you that fire employees or have
 22 experience in firing them?
 23 A I didn't put that in there because I don't fire anybody.
 24 Q Where does it say on there that you have authority and
 25 experience in effecting transfers of employees, layoffs,

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1 anything like that on here?
 2 A I didn't put it in there because I don't do those.
 3 Q And I don't see a reference, and please correct me if I'm
 4 wrong and point it out, that there's -- there doesn't seem to
 5 be anything on this resume that talks about you having
 6 authority or that you exercise discipline on people, does it?
 7 A Correct.
 8 Q Why isn't discipline on here?
 9 A Because I -- we don't have exclusive, you know, discretion
 10 to discipline employees.
 11 Q So now this resume is something you prepared. Were you
 12 applying for another job, sir?
 13 A Yes. There was an -- an operation manager position opened
 14 up at the time. I applied and this was the resume that I
 15 submitted at the time.
 16 Q All right. Now, some specifics references again to the
 17 resume. You were asked questions and gave some testimony on a
 18 bullet point about trained and managed team members. And I --
 19 my notes reflect -- say you trained them what to do and you had
 20 some more testimony about what that might involve. Do you
 21 remember that question and your answers about training them
 22 what to do, training management team members on --
 23 A If I recall, I -- trained here is to mean that we have a
 24 team meeting that we conduct every month. So through that
 25 trained meeting -- team meeting, we educate our team members.

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1 So basically they're -- you're getting trained --
 2 Q Okay.
 3 A -- because we have -- we conduct those meetings.
 4 Q So is it fair to understand that the -- the what to do
 5 that you train them on, what happens if you're -- if there's a
 6 holdup, what happens if there's a tornado, does the what to do
 7 in those situations come from management or do you make it up
 8 yourself?
 9 A Most of the time the team meetings emerge from managers.
 10 But we have also a role of -- of -- we can also add titles or
 11 issues that we -- we think are very important, you know, for
 12 the cashiers to boost their customer service level or, you
 13 know, to make them aware of what they're expected to do.
 14 Q Okay. You also had some testimony regarding the fourth
 15 bullet point, "Monitored and supervised cashiers for technical
 16 accuracy and conformance to policy." Now, you gave some
 17 testimony about that and I wanted to ask, does this monitoring
 18 and checking include a checking of documents and documentation?
 19 A Correct.
 20 Q What kind of documents and documentation?
 21 A Before we -- we have this new equipment -- I'm -- I'm
 22 gonna give you a very specific example -- the City and County,
 23 again, were our client. They are very serious about
 24 documentation of any exception transaction at the exit lanes.
 25 Any revenue control, exception transaction has to be logged,

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1 documented on the cashier lane report.
 2 Q What's an exception transaction?
 3 A Well, let's say customers lose their tickets --
 4 Q Oh, okay.
 5 A -- or, like I mentioned earlier, we have a different fee,
 6 an exaggerated fee than the customer thinks that he owes, or a
 7 blank ticket, unreadable ticket.
 8 Q Okay.
 9 A So they have to document those. There is an employee
 10 procedure for cashiers on how they should document those. It
 11 is my job to go to their lanes, to the exit lanes, and see if
 12 they actually documented those.
 13 Q Okay.
 14 A And also I mentioned on my resume -- we didn't discuss
 15 this -- because it's important -- we do -- we conduct the spot
 16 audits just to make sure of the accuracy of the paperwork and
 17 whether or not to, you know, know if -- revenue -- that all the
 18 revenue is accounted for.
 19 Q And so this is a mathematical -- clerical mathematical --
 20 A Exactly.
 21 Q -- computation?
 22 A You pull the report, you count the money, see if they're
 23 on the money. That's it. And then you go out. Now, we do
 24 that suddenly. So that's why we call it spot audits.
 25 Q And if you find discrepancies, what do you do about that?

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1 A We -- I will close them right away, inform a manager and
 2 managers usually -- well, it's happened to me that they say,
 3 "Okay. Is she short?" "Yes." "Okay. Send her here." And I
 4 send her to the manager and I don't know what happened after.
 5 Q All right. Now, you were asked some questions about the
 6 Collective Bargaining Agreement, which is -- oops. What is it?
 7 It's Company --
 8 THE COURT REPORTER: 14.
 9 Q BY MS. COTE: -- 14. And I'd like to ask you, have --
 10 were -- as part of you being a supervisor, were you issued a
 11 copy of this Collective Bargaining Agreement?
 12 A Not this one. I got a hold of the old one. I don't know
 13 how. But if you ask me if I was officially given one, my
 14 answer is no. If I can ask --
 15 Q Okay. Well, did you ever get any training from any
 16 manager about your responsibilities under the Collective
 17 Bargaining Agreement?
 18 A No.
 19 Q And you were asked specifically about the step-one
 20 process. In all the time that you have worked as a supervisor,
 21 have you ever issued discipline?
 22 A Yes, I did
 23 Q And was this discipline then approved by higher level
 24 management when you put it out?
 25 A All the time, other than attendance.

1 Q Okay.
 2 A I'm talking about prior authorization before issuing it.
 3 Q Okay. Do you know whether any of the disciplines that you
 4 were involved with in writing up or documenting it were ever
 5 grieved?
 6 A Yes. All -- all other disciplinary warnings that I am
 7 involved in issuing, preparing, they got grieved.
 8 Q Okay. Other than attendance you mean?
 9 A Other than attendance.
 10 Q Now, in all those grievances, did you ever sit down with
 11 the grievant, the employee, and his or her union steward in an
 12 attempt to resolve the grievance?
 13 A Never.
 14 Q Who is it that met with, if you know, the grievant and the
 15 union steward in an attempt to resolve the grievance?
 16 A I have no knowledge of that.
 17 Q Now, I'd like to call your attention to the step-one
 18 language which is, on page 21 of the Collective Bargaining
 19 Agreement. And the last sentence of step one scientifically
 20 says, quote, "The Company representative shall issue his/her
 21 answer in writing within five working days," closed quote. Do
 22 you see that sentence, sir?
 23 A I do.
 24 Q Do you know who the company representative is?
 25 A Mr. Isaac Kilgore, the general manager.

1 Q Okay. Is it you? Has it ever been you, this company
 2 representative who issues an answer within five working days?
 3 A No, ma'am.
 4 Q Were you ever informed in any way, shape or form that you
 5 had an obligation to issue answers on grievances within a
 6 certain period of time?
 7 A By myself?
 8 Q Yes.
 9 A No.
 10 Q Okay. Now, you have testified that you have attended
 11 grievance meetings?
 12 A Correct.
 13 Q And what is your attendance at the grievance meeting?
 14 What are you called upon to do during those grievance meetings?
 15 A If I am the person to present the documentation that
 16 lead -- you know, for that employee report, then I have to be
 17 on that meeting because without my presence -- this happened to
 18 me: I wrote an employee in consultation with operation manager
 19 at the time and that employee grieved and -- and they set up a
 20 date, you know, that we have the grievance meeting. And my
 21 wife was pregnant and the next day and I have to take family --
 22 FMLA leave because she -- we had a baby. I took FMLA leave.
 23 And I came back and that write-up was, you know, torn down.
 24 Torn down, whatever. You know, that employee did not get that
 25 write-up.

1 Q Because you weren't there to back up the --
 2 A Yeah. Because --
 3 Q -- attached documentation?
 4 A -- anything that she says would be true because whatever
 5 that I submitted as a backup is not a backup if I don't -- I
 6 won't be on the meeting.
 7 Q So have you ever -- you have been present though in
 8 certain grievance meetings?
 9 A Yes I've been present and I reiterate what -- why I
 10 wrote that and how I wrote it and I confirm the accuracy of the
 11 backup documentation that I have presented. And then if they
 12 have any other evidence against them, you know, we will debate
 13 it and eventually it will go through.
 14 Q Okay.
 15 A It went through. But the meeting that I --
 16 Q Who is the -- who decides -- are you a person who decides
 17 whether or not the discipline is upheld?
 18 A No. Even when I get out of that grievance meeting, I
 19 don't know if that, you know, grievance will be upheld or it
 20 will be, you know, reversed.
 21 Q Okay.
 22 A But after days, then I would be contacted and they say,
 23 "Oh, you know what, that grievance meeting is upheld," or,
 24 "That grievance meeting is removed from that employee file."
 25 Q Okay. And are you consulted by higher level management of

1 whether or not to uphold a grievance either in the grievance
 2 meeting or after the grievance meeting?
 3 A No, ma'am.
 4 Q In all your dealings with other supervisors, are you --
 5 have you become aware that any of them have ever been the
 6 individual who meets with the grievant and the Union
 7 representative and gives a decision on a grievance within five
 8 days?
 9 A No, ma'am.
 10 Q You remember asked on cross-examined (sic) about your
 11 testimony -- I don't think I said that right.
 12 You were asked on cross-examination about your testimony
 13 about filling in a schedule and redoing a schedule and
 14 challenged about whether or not you need the okay of a manager
 15 to make those adjustments. Do you remember that testimony in --
 16 A I do remember that.
 17 Q Now, you mentioned in your testimony that you would be in
 18 trouble, and so you were cross-examined on that issue. Now, in
 19 all the times that you need to make adjustments off the master
 20 schedule, when you call the managers for permission to make
 21 adjustments or to have them tell you what kind of adjustments
 22 to make, "Go ahead fill in the three vacancies," or, "Just fill
 23 in one or two," that type of thing, who are you calling? An
 24 operation's manager?
 25 A Yes.

1 Q Now --
 2 A That's -- and I follow a chain of command.
 3 Q Okay. So you go to the operation's manager and you say,
 4 "Master says this but we've got this guy on vacation. We need
 5 to do something"?
 6 A Correct.
 7 Q All right. Now, has the -- has the operation's manager
 8 you've consulted with ever told you, "Why are you calling me?
 9 Do it yourself. Take care of this You're bothering me. This
 10 isn't my job"?
 11 A No.
 12 MS. COTE: Nothing further.
 13 HEARING OFFICER SAVELAND: Anything further?
 14 MR. HARVEY: Nothing further from me either.
 15 HEARING OFFICER SAVELAND: Okay. And so you're free to go.
 16 THE WITNESS: Thank you.
 17 HEARING OFFICER SAVELAND: And, Ms. Cote, do you have any
 18 additional witnesses?
 19 MS. COTE: Can I confer with my business agent --
 20 HEARING OFFICER SAVELAND: Sure.
 21 MS. COTE: -- just for a moment, please?
 22 Can we get back in if we go out this --
 23 HEARING OFFICER SAVELAND: I don't know.
 24 MS. COTE: Is this locked now? You're not sure.
 25 HEARING OFFICER SAVELAND: I'm not sure, but I'll let you

1 back in.
 2 MS. COTE: You promise?
 3 HEARING OFFICER SAVELAND: So off the record, please.
 4 (Off the record at 7:06 p.m.)
 5 HEARING OFFICER SAVELAND: Okay. On the record.
 6 Ms. Cote, no more witnesses?
 7 MS. COTE That's correct.
 8 HEARING OFFICER SAVELAND: Okay. Employer, calling any
 9 rebuttal witnesses?
 10 MR. HARVEY: No.
 11 HEARING OFFICER SAVELAND: Okay. Just briefly I want to go
 12 through quickly just the main indicia of supervisory status and
 13 see if we're on the same page as far as whether the particular
 14 indicator is at issue.
 15 So for disciplines, suspension, that's at issue, correct?
 16 MR. HARVEY. Yes.
 17 HEARING OFFICER SAVELAND: And just stop me if I'm wrong.
 18 The ability to hire is not at issue, the ability to transfer is
 19 not at issue, the ability to lay off and re-call employees is
 20 not at issue, the ability to promote is not at issue, the
 21 ability to reward is at issue, adjust grievances is at issue,
 22 discharge not at issue and assignment and direction is at issue
 23 between the parties.
 24 Does that sound correct, Employer?
 25 MR. HARVEY: Yes.

1 HEARING OFFICER SAVELAND: Petitioner?
 2 MS. COTE: Yes, ma'am.
 3 HEARING OFFICER SAVELAND: Okay. So let's go --
 4 Mr. Harvey, what's the Employer's final position regarding the
 5 petitioned for unit description?
 6 MR. HARVEY: Well, the -- the -- based on the bulk of the
 7 testimony today as well as the documentary evidence, it's clear
 8 that there is no coverage for the supervisory employees. We
 9 had two supervisors themselves, a lane supervisor and a traffic
 10 supervisor, come in and testify credibly about the duties that
 11 they perform, about the discipline that they impose, about the
 12 direction they give the employees and the independent judgment
 13 and discretion that they have in all faucets of their job. We
 14 had an operation's manager come in here and credibly testify
 15 that he does not require the employees that he supervises to --
 16 to get discipline approved; talked about the freedom that the
 17 employees -- supervisory employees have to supervise those
 18 employees under their direction. And we also had the --
 19 possibly the strongest evidence from the assistant general
 20 manager, Mr. Jorgensen, who claimed and testified credibly
 21 about the various supervisory -- true supervisory tasks that
 22 the supervisors perform, including discipline, including
 23 directing the employees, including having an impact on the
 24 rewards that are available to the employee and making
 25 recommendations to management that are followed about different

1 employees, as well as being involved in the grievance process.
 2 The -- the evidence amply shows just how much authority the
 3 employees have over the employees that they supervise. They
 4 are true supervisors within the context of the facts and as
 5 well as the meaning of excluded supervisors under the Act. As
 6 you are well aware, there is no requirement that the company
 7 establish that the supervisory employees perform every single
 8 articulated function under Section 11, I believe it is, in
 9 order to qualify as supervisors.

10 In fact, there have been cases where supervisors performed
 11 only one of the tasks that are enumerated in the Act and were
 12 considered to be supervisors. Here we have numerous
 13 classifications -- or categories of employment that -- and job
 14 duties that these employees perform on a regular basis with
 15 full discretion and with independent judgment

16 In contrast, the Union has presented one employee who
 17 despite every other employee that was presented today saying
 18 that the -- that things -- the supervisors have the discretion,
 19 that they can perform the various functions. You got one
 20 employee, who's interested in having the Union represent them,
 21 say that he doesn't do any of that stuff. And when you look at
 22 the great weight of the evidence and the credibility of the
 23 bulk of the evidence that's been presented here, it's clear
 24 that the employees at issue are excluded under the National
 25 Labor Relations Acts because they are supervisory employees.

1 HEARING OFFICER SAVELAND: Okay. And, Ms. Cote, what is
 2 the Petitioner's final position regarding the unit -- the
 3 petition for unit?

4 MS. COTE: Are we going to be doing briefs, because I
 5 wasn't going to get into a whole long thing.

6 HEARING OFFICER SAVELAND: Well -- well, I'm still going to
 7 need your position. Basically you can give me a succinct
 8 position, if that's --

9 MS. COTE: All right.

10 HEARING OFFICER SAVELAND: -- the case. But basically if
 11 you want, if you're both willing to waive the filing of briefs,
 12 you can do so; if you're not willing to waive the filing of
 13 briefs, I can't force you to waive it. In -- in which case
 14 you'd have seven days to file a brief.

15 So at this point, do you plan to waive the filing of a
 16 brief?

17 MS. COTE: No.

18 HEARING OFFICER SAVELAND: Okay. That means you're open to
 19 filing a brief if you'd like to; and, if not, you can just
 20 stand on your oral argument. That will be in the record.

21 MR. HARVEY: Oh, for the record, I could like to request
 22 a -- an extension of the brief filing period. I understand
 23 that you have the discretion to extend that period up to 14
 24 days beyond the seven. And I would respectfully request that
 25 to allow myself and opposing counsel to finish our briefs and

1 submit them.

2 HEARING OFFICER SAVELAND: Okay. We're getting ahead of
 3 ourselves a little bit --

4 MR. HARVEY: Yeah.

5 HEARING OFFICER SAVELAND: -- but let me just let you know,
 6 I'm not going to grant an extension today, however you can file
 7 an -- a request for an extension with the regional director
 8 tomorrow or tonight, if you want to stay up super late, and
 9 then she will -- she will give you an extension if she -- if
 10 she deems it's necessary.

11 MR. HARVEY: Uh-huh.

12 HEARING OFFICER SAVELAND: But, Ms. Cote, back to getting
 13 your final position, what is the unit that the Petitioner --
 14 the position with respect to the unit that you're petitioning
 15 for of the Petitioner?

16 MS. COTE: It is the Union's position of course that these
 17 individuals have supervisor in their title but they do not
 18 constitute statutory supervisors. I think an examination of
 19 the evidence and, in particular, the lane supervisor and the
 20 traffic supervisor testimony will show that reference is made
 21 consistently with the exhibits, that managers were consulted or
 22 initially involved in the discipline that was issued. And --

23 HEARING OFFICER SAVELAND: Okay. Let me just stop you.
 24 Because if you guys are going to file briefs anyway, we don't
 25 -- you don't need to do the whole -- the whole argument here.

1 I just need to know the unit that you are seeking --

2 MS. COTE: Oh.

3 HEARING OFFICER SAVELAND: -- at this point.

4 MS. COTE: Okay.

5 HEARING OFFICER SAVELAND: So just name the classifications
 6 off. Okay?

7 MS. COTE: Thank you.

8 HEARING OFFICER SAVELAND: Uh-huh. No problem

9 MS. COTE: It is the position of the Teamsters that the --
 10 that the Unit at Standard Parking should be certified for
 11 election are LPI supervisors, license plate supervisors, one
 12 and the same, LPI are license plate supervisors, lane
 13 supervisors, traffic supervisors, finance supervisors and audit
 14 supervisors constitute a unit.

15 HEARING OFFICER SAVELAND: Okay. And is the -- is the
 16 Petitioner prepared to proceed to an election in any unit found
 17 appropriate by the Regional Director or the Board?

18 MS. COTE: Yes.

19 HEARING OFFICER SAVELAND: Okay. And may the record
 20 reflect there's no intervenor here.

21 Okay. Any outstanding stipulations agreed to during these
 22 proceedings are now received. I think that's only General
 23 Counsel's 2 and then the stipulation regarding the exclusions
 24 that we discussed earlier on the record. I believe we already
 25 discussed on the record; parties are not willing to waive the

1 filing of briefs.
 2 At this time briefs are due by close of business on July
 3 30th, 2012. That's seven days from now. Any motion for
 4 extensions should be -- should be addressed to the Regional
 5 Director. The parties are reminded that they should request an
 6 expedited of the transcript from the court reporter. Late
 7 receipt of the transcript will not be grounds for an extension
 8 of time to file briefs if you fail to do so.
 9 If there is nothing further, the hearing will be closed.
 10 Hearing no response, the hearing is now closed.
 11 All right. We're done.
 12 (Whereupon, the hearing in the above-entitled matter was closed
 13 at 7:16 p.m.)

C E R T I F I C A T I O N

2 This is to certify that the foregoing deposition in the matter
 3 of Standard Parking Corporation and Teamsters Local Union, No
 4 455, Case Number 27-RC-085144, at the National Labor Relations
 5 Board, Region 27, 600 17th Street, Suite 700N, Denver, Colorado
 6 60202 on Monday, April July 23, 2012, at 9:09 a.m., was held
 7 according to the record, and that this is the original,
 8 complete and true and accurate transcript that has been
 9 compared to the reporting or recording accomplished at the
 10 hearing. The exhibit files have been checked for completeness
 11 and no exhibits received in evidence or in the rejected exhibit
 12 files are missing.

Joan R. Matteo
 JOAN MATTEO
 Official Reporter

A	accommodate 67 9	153 21 164 1	admitted 42 16	AGM 191 18 194 5
Abdi 176 21	accomplished	218 4 306 10	46 2 57 17 60 11	200 7 239 22
177 12 178 24	321 9	added 40 11,18	63 3 67 4 164 9	242 6,6,11 245 4
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67 22 68 2,4,20	accounted 307 18	addition 137 6	144 25 161 4	144 25 161 4
73 15 122 18	accounting 43 22	additional 5 9	194 3 213 5,5	232 23,23 248 6
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126 14 139 8	34 1 118 3,5,13	104 13 122 13,14	advise 129 24	agree 61 15 73 9
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58 6 99 20 104 11	42 3 44 10,20	271 23,25 313 18	affirmative 70 19	170 12,14 223 17
126 19 130 17	48 17 114 7	additions 211 6	78 13,18	291 6,8 319 21
152 22 194 14	118 10,12,25	address 7 8 11 11	afternoon 7 19	agreement 29 6,11
236 9 237 2,21	119 17 127 13	31 17,19,20	144 15,16 150 2,3	30 3,6,10 56 5
238 10 248 12	208 12 295 12,13	138 10 166 2,8	160 14 168 19,20	58 22 99 15,17
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absence 64 7,8	37 6 149 2 161 11	157 14,15 233 16	166 14,16 173 10	128 17 130 25
122 4,5 201 4	achieved 297 10	239 16,17 240 8	217 10,11 218 13	170 11,23 171 6,8
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absent 64 11 81 1,2	316 5,11	adjust 126 18	162 7 169 24	215 6 224 9 247 5
83 20 170 16	acting 227 15	217 8 275 23	177 4,15,16,18	247 7 264 9,17,20
210 7	action 13 2 23 5	302 13 314 21	178 2,4,5,9	264 20,22 265 10
absolutely 17 3	146 3,6 164 18	adjusting 13 2	274 12 313 19	265 14,24 266 1
35 1 235 13	165 7 166 19,25	adjustment 249 24	agents 14 7 27 1,4	269 10 275 3,7 18
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215 10 231 19	actual 271 8 316 25	administrator	161 15 162 8	263 18
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147 22 160 9	announce 246 19	90 10 235 15	216 23 217 2	166 23 287 15
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185 23 191 24	135 7,8,11,13,14	applicable 22 7	253 9 257 4	asked 120 11,11
193 24 200 17	141 17,17,19	40 23 41 11 98 2	approved 6 10 45 1	128 16 140 11
201 11 202 3	annually 135 6	application 294 2	56 14 96 14,21	152 1 166 8
216 6 228 2	answer 36 2 37 3	applied 51 16	162 8 198 5 201 6	183 19 233 24
235 24 245 25	40 1 75 3 242 12	310 3 293 4	204 5,9,21 213 25	230 22 237 22
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318 2	309 21 310 2	applying 293 11	253 25 299 12	308 5,19 312 10
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amount 25 14	217 2 318 24	271 1 276 20	262 2 317 20	assignment 146 1
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270 1 295 20	appearing 5 5	123 2 158 6	185 20,25 268 7	assigns 131 9
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Table with multiple columns of text containing various words and numbers, such as 'assist 20 21 70.8', '112 1 113 2', '60 3 69 11,16', etc.

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Table with multiple columns of text containing various words and numbers, such as 'C 14 2 1 5 1,6', '259 13,13 268 2', 'capable 108 23', etc.

Table with multiple columns of text containing various words and numbers, such as '153 14 163 16,19', '45 3 71 7', '249 23 307 19', etc.

226,10,20 227 16	307 21	conflict 8 1	contains 6 11	65 2 155 18
227 19 231 12	computations	conformance	contend 110 23	182 17 184 12,13
236 6 239 20	196 16	306 16	contending 117 14	184 20,23 185 2,3
241 13 242 20	computed 99 2	conforming 296 14	content 234 3	196 18 218 14
243 12 262 4,18	computer 14 20	confronted 267 7,9	content 66 21	260 23,25 276 17
263 11,22,24	99 15,17 100:12	267 11	166 20 316 4	277 9
264 20,265,15,25	100 20,21 116 11	confused 49 21	continue 263 10	copy 11 7 57 10,23
274 4 281 7	116 22 117 11	256 25	303 7	78 13,19 146 21
296 14 308 7	118 14 122 3	consequences 8 24	continued 42 18	155 1,2,3,11,15
309,20,24 310 1	124 8 132 5	consider 293 25	46 19 140 10	156 2 178 25
316 6	140 17 153 17,24	consideration 35 2	239 23	179 4 182 14,16
Companywide	189 14 190 17	considered 234 6	Continuing 32 25	182 16,17 183 3
28 23	215 9,10,12,25	241 5 294 10	35 13	187 7,19 195 4
company's 8 19	216 2,7 237 4,18	316 12	contract 6 14 16 25	218 10 229 12,25
21 9 121 2 235 22	237 21 238 7,9,10	consistent 280 19	230 1 231 9	200 1 231 9
compared 259 8	248 1,7 249 23,23	consistently 123 15	236 25 237 19,20	237 23 257 13
321 9	computers 87 16	252 7 318 21	63 25 70 13 74 3	260 8,15 264 12
comparison 117 4	87 18	consists 249 18	93 12 127 17	264 13 286 6
compiles 111 16	computes 114 22	constant 299 15,21	135 21 158 20,23	308 11
complain 112 15	concentrate 178 2	constitute 318 18	161 18 167 20	core 22 14
247 10,15	concentrated	319 14	171 7 181 10	Corer 18 3
complaining 99 5	178 21	constitutes 29 23	200 5 248 22	corporate 106 24
complaints 112 13	concept 14 1	construction 166 3	280 20	107 10 114 15
113 5	concerned 43 18	273 22 288 16,17	contractor 22 19	133 25
complete 10 23	118 18	consult 108 20	contractors 21 7	corporation 1 6 5 4
50 1 52 16 111 14	concerning 44 15	109 20 111 9	contracts 163 17	5 18 7 10,15 9 25
197 13 24 208 5	44 22	165 2 200 11	contractual 43 5	10 9 12 17 20 7
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321 8	conclude 243 23	271 21 282 17	46 3 127 14	62 15 186 20
completed 67 12	267 20	consultation 106 3	237 23 257 13	264 10 277 15
226 1 256 24	concluded 16 22,23	110 24 111 5	321 3	correct 9 23 10 2
completely 50 22	conclusion 253 4	207 16 211 14,16	contradicts 242 20	10 22,24,25 12 1
131 9	265 17	212 1 310 18	contrast 316 16	12 3,5,7 16 3 18 2
completeness	conclusory 15 14	consulted 107 19	control 36 5 306 25	18 4 23 17 27 11
321 10	conduct 147 4	110 10,14 203 3,9	convention 273 16	29 12 30 14 31 10
completing 47 24	275 19 297 6	203 13,15,18,19	273 17	40 16,17,24 43 11
52 12	305 24 306 3	211 24 270 10,13	conversation	51 17,19 53 16
compliance 20 16	307 15	207 15,17,24	291 11,11	58 24 60 9,10
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172 24	252 14 260 19	consulting 100 3	coordinating 149 8	79 24 80 10,12,17
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Compromise	30 18	69 24,25 247 23	108 11 233 11	84 12,13,20 85 13
143 20	confirm 31 25	248 13	copied 123 13,16	85 14,23 86 2,13
computation	222 12 311 10	contracted 7 20	copies 5 10 29 5	
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87 23 88 4,5 89 7	240 15,16 241 10	39 6,8,11 41 18	317 17 318 12,16	cover 12 20 96 7
89 11,15,20 92 9	241 12 242 2,10	42 5,11,14 45 16	319 2,4,7,9,18	129 2 173 12
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98 3,8,9,25 101 9	244 13,15,18,21	46 17 49 12,14,15	counsel 5 12,14 9 4	293 10 295 5
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102 22 103 11,20	246 4 248 6,18,19	51 3,10,22 54 17	252 14 260 19	coverage 11 18,20
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105 1,19 106 1,7	250 14,16 254 5	60 10 62 5,6,16	317 25	315 8
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240 23 241 18,19	\$20 58 20	105 264 10 277 16	186 3 7	236 4 24
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269 4 272 24	58 10,12,21 59 10	12 163 3 4 164 6,10	176 20 181 15	5 4 321 4
274 22 275 8,25	59 17,22 74 23,24	176 20 181 15	38 13,15 40 8	288 4 21
276 23,25 277 3	74 25 75 3,5,7,12	184 23 231 25	42 17 63 25	289 4 20,20
281 5 286 7,13	76 9,13 77 10,21	284 4 285 7	160 22 167 11	292 4 21,22
287 2 288 15,15	78 10,17 148 7,10	12:50 143 23	238 23,24 239 1,9	3
288 17 290 7	152 11 248 17,20	13 164 12 165 14	241 24,24 242 23	3 23 16 38 17,19
291 10 293 2,24	\$600 71 5 74 25	165 19 174 14,14	243 10 254 20	64 1,1
297 11 298 11,18	77 16 78 4	174 16 179 8	262 20,23 281 20	J-A 2 8
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year 64 10 124 6	064 5	14 277 15 289 7	20 3 3 64 5 297 16	3:50 241 15 242 12
124 11 125 2	02 238 23	308 8,9 317 23	20th 8 8 239 6	30 170 19,19
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279 12,14,18	236 23 281 19	15:30 241 16	288 6,10	38 4 7,8,9,10,11
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42 24 44 13 55 18	10 2 8 60 14,15	304 9,15,17	239 6 241 25	40 212 18,19
64 2 65 2 86 6	231 12 277			

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Request for Review was served upon:

Wanda Pate-Jones, Regional Director
National Labor Relations Board
Region 27
600 17th Street- 7th Floor North Tower
Denver, Colorado 80202-5433

And

Linda M. Cote. Esq.
Teamsters Union Local 455
10 Lakeside Lane, Suite 3-A
Denver, Colorado 80212

By depositing same in the mail, postage paid at 900 N. Michigan Avenue, Suite 1600,
Chicago, Illinois 60611 on the 17th day of September, 2012.



Brett A. Harvey

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