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Attorneys for Employer
SANDS BETHWORKS GAMING, LLC
d/b/a/ SANDS CASINO RESORT BETHLEHEM

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SANDS BETHWORKS GAMING, LLC
d/b/a/ SANDS CASINO RESORT
BETHLEHEM,

Respondent,

and

LAW ENFORCEMENT EMPLOYEES
BENEVOLENT ASSOCIATION,

Charging Party

CASE 04-CA-115226

**RESPONDENT'S OPPOSITION TO
GENERAL COUNSEL'S MOTION FOR
SUMMARY JUDGMENT AND
RESPONSE TO BOARD'S NOTICE TO
SHOW CAUSE**

I. INTRODUCTION

Respondent Sands Bethworks Gaming, LLC d/b/a Sands Casino Resort Bethlehem (“Respondent”) submits this Opposition to the General Counsel’s Motion for Summary Judgment and Response to the Board’s Notice to Show Cause. The General Counsel’s motion is fatally flawed by: (1) implicitly assuming the Supreme Court will reverse the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Noel Canning v. NLRB*, 705 F.3d 490 (D.C. Cir. 2013); and (2) setting forth as purported “fact” the General Counsel’s erroneous views of Respondent’s defenses. Respondent urges the Board to deny the motion for the following reasons:

- This case will be moot if the Supreme Court affirms *Noel Canning* because all four Board orders underlying this matter will be invalid;¹
- The evidence indicates that Charging Party Law Enforcement Employees Benevolent Association (“Charging Party”) is no longer a Section 2(5) “labor organization” and/or has disclaimed representation of Respondent’s employees (Exhibit C); and
- Charging Party requested the information at issue for an improper purpose – to determine whether to pursue a claim of “*unfair and/or discriminatory*” treatment “in bargaining with the Employer, *or in another forum.*” (GC Exhibit 5, emphasis added).

Given the substantial legal issues and the genuine issues of material fact, the Board should deny the General Counsel’s Motion for Summary Judgment. If the Supreme Court affirms *Noel Canning*, the complaint in this case must be dismissed. Even if the General Counsel correctly predicts a reversal of *Noel Canning*, the Board should nonetheless remand this matter

¹ Given that the Court will likely issue a decision in *Noel Canning* prior to the end of June 2014, we respectfully suggest that the Board await the Court’s decision before ruling on the General Counsel’s motion.

for a hearing on the factual issues raised by Respondent's defenses. *See* Board Rules & Regulations Section 102.45(b) ("The Board in its discretion may deny the motion . . . where the opposing party's pleadings, opposition and/or response indicate on their face that a genuine issue may exist"); *see, e.g., Postal Service*, 311 NLRB 254, 254 (1993) (denying cross-motions for summary judgment where it appeared "that a genuine issue of fact may exist as to whether the General Counsel can establish that the Union is entitled to information regarding nonunit matters").

II. FACTS

A. Background

The record in the underlying proceedings reveals an unlawful affiliation between Charging Party and nonguard labor organizations. Among other things, former United Steelworkers ("USW") official George Bonser (who is one of Respondent's security officers and the person responsible for filing the charge in this matter) brought in LEEBA as a cover for a USW organizing campaign which was planned and orchestrated long before it became public in May 2011.

After the July 2011 election, Bonser advised Respondent that Charging Party would be eliminated from the bargaining process.² In February 2012, Bonser advised Respondent that he had become president of the union – presumably the so-called "Local 777." (Exhibit A) In April 2012 Respondent discovered a website which boasts that Local 777, rather than Charging Party, represents Respondent's security officers. (Exhibit B) The "Welcome" page states that it is for

² Although Respondent was barred during the post-election hearing from questioning witnesses or subpoenaing any documents concerning these issues – even as to facts and circumstances which arose after the pre-election hearing – the evidence points to the inevitable conclusion that Bonser intended to replace Charging Party as the security officers' representative with a labor organization that he and/or the USW would control.

the “*employees* of the Sands Resort and Casino [sic] of Bethlehem, PA *who comprise Local 777* of LEEBA.” (*Id.*) The “About Us” page states, “*We have organized as local* [sic] 777 of the Law Enforcement Employees Benevolent Association”³ (*Id.*)

B. *Charging Party is No Longer a Labor Organization and/or Has Disclaimed Interest in Representing Respondent’s Security Officers*

On August 8, 2013, Charging Party’s president and treasurer signed “under penalty of perjury” a U.S. Department of Labor, Office of Labor Management Standards Form LM-3 Labor Organization Annual Report. (Exhibit C) On the Form LM-3, Charging Party declared as “true, correct, and complete” that “we *no longer represent* Seagate Police Officer [sic] *nor any other private sector* [sic] *under the National Labor* [sic] *Board.*” (*Id.* emphasis added.) Charging Party submitted the completed Form LM-3 to the DOL’s Buffalo office, which received it on August 12, 2003. (*Id.*)

C. *Charging Party’s Improper Purpose for Requesting the Information*

On April 8, 2013, Charging Party filed a charge (Case 04-CA-102165) challenging Respondent’s one-day suspension of security officer Tyler Fenstermaker and Respondent’s refusal to provide copies of documents related to Fenstermaker’s discipline. (Exhibit D) On June 24, 2013, Bonser wrote a letter to Respondent’s human resources department, requesting “copies of all witness statements” concerning Fenstermaker. (GC Exhibit 4) Respondent replied on July 12, 2013, setting forth various objections to the request. (Exhibit E)

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³ In addition to evidence which Respondent sought to introduce into the record – and which the post-election hearing officer improperly rejected – the Local 777 website reveals additional evidence of Charging Party’s and/or its delegatee’s continuing desire to affiliate with nonguard unions. On the “Union Made in America” page, the website commands Respondent’s security officers and “unionized workers” in production (nonguard) positions in the United States to financially “support each other.” (*Id.*)

On August 2, 2013, Charging Party filed a charge (Case 04-CA-110532) challenging Respondent's July 12 objections to the information request. (Exhibit F) On August 14, 2013, Bonser again wrote to Respondent's human resources department, clarifying his request and explaining the Charging Party's purpose was to determine whether to pursue a claim of "*unfair and/or discriminatory*" treatment "in bargaining with the Employer, *or in another forum.*" (GC Exhibit 5, emphasis added.) On August 29, 2013, the Regional Director approved Charging Party's request to withdraw the charge in Case 04-CA-110532. (Exhibit G) Given that the Charging Party withdrew the two previous charges (Cases 04-CA-102165 and 04-CA-110532) after admitting the improper purpose for requesting the information, Respondent believed Bonser's information request was moot and did not reply to his August 14 letter.

However, on October 21, 2013 Charging Party filed the charge herein (Case 04-CA-115226), asserting that it is entitled to the requested information. The Acting Regional Director issued a complaint on December 26, 2013, and Respondent filed its Answer on January 9, 2014. The General Counsel's Motion for Summary Judgment followed on April 8, 2014.

III. DISCUSSION AND ANALYSIS

A. *If the Supreme Court Affirms the Decision of the Court of Appeals in Noel Canning, the Complaint Must be Dismissed*

If the Supreme Court affirms the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Noel Canning v. NLRB*, 705 F.3d 490 (D.C. Cir. 2013), all four Board decisions underlying this matter will be invalid.⁴ Respondent would have no obligation to

⁴ Those four Board decisions are:

- *Sands Casino Resort Bethlehem*, 358 NLRB No. 49 (May 30, 2012) (Decision and Order of Chairman Pearce, Member Hayes, and ostensible Member Griffin);
- *Sands Casino Resort Bethlehem*, 04-CA-076289 (April 20, 2012) (Order Transferring Proceeding to the Board and Notice to Show Cause, issued by Executive Secretary

bargain with Charging Party or to provide any information, rendering this case moot and requiring the Board to dismiss the complaint.

B. *A Hearing Should be Held on Whether Charging Party is a Labor Organization and/or Has Disclaimed Interest in Representing Respondent's Security Officers*

The evidence indicates that Charging Party has ceased functioning as a Section 2(5) labor organization and/or has disclaimed interest in representing Respondent's security officers (such as by delegating or transferring its Section 9(a) responsibilities to Local 777). *See, e.g., Sisters of Mercy Health Corp.*, 277 NLRB 1353 (1985) (finding a disclaimer of interest where OPEIU transferred representation, at the request of employees, from OPEIU Local 417 to Local 7). A union may not delegate or transfer to another union its representative responsibilities, even if the two unions are closely affiliated. *See, e.g., Goad Co.*, 333 NLRB 677, 677 n.1, 680 (2001) (employer lawfully refused to bargain with Plumbers Local 562 after Plumbers Local 420 delegated its responsibilities to Local 562); *Sherwood Ford, Inc.*, 188 NLRB 131, 134 (1971) (employer lawfully refused to bargain with Teamsters Local 604 after Automobile Salesmen's Local 1 delegated its responsibilities to Local 604).⁵

Heltzer at the direction of the Board, which then consisted of Chairman Pearce, Member Hayes, and ostensible Members Block, Flynn, and Griffin);

- *Sands Casino Resort Bethlehem*, 4-RC-21833 (February 20, 2012) (Decision and Certification of Representative, issued by Chairman Pearce, Member Hayes, and ostensible Member Griffin); and
- *Sands Casino Resort Bethlehem*, 4-RC-21833 (July 20, 2011) (Order of Chairman Liebman, Member Pearce, and ostensible Member Becker denying Employer's Request for Review of the Regional Director's Decision and Direction of Election).

⁵ The statutory duty of fair representation may not be delegated; only employees have the statutory power to confer Section 9(a) status on an elected representative. *See Standard Oil Co.*, 92 NLRB 227, 236 (1950) (employees voted to be represented by local not international or both), *remanded on other grounds* 196 F.2d 892 (6th Cir. 1952). An employer has a duty to recognize and bargain with only its employees' Section 9(a) representative, and a negative duty to deal with no other purported representative. *Medo Photo Supply Corp. v. NLRB*, 321 U.S. 678, 683-84 (1944).

Charging Party's statements in its DOL Form LM-3, combined with the actions of Bonser and Local 777, raise genuine issues of fact warranting a hearing. Accordingly, the General Counsel's Motion for Summary Judgment should be denied.

C. *A Hearing Should be Held to Determine Whether Charging Party Made the Information Request for an Improper Purpose*

The Board has repeatedly held that an employer has no obligation to provide information which might assist a union in pursuing unfair labor practice charges or other legal actions against the employer. In *WXON*, 289 NLRB 615 (1989), the employer refused to respond to the union's information request regarding the termination of several employees where the request related to a subsequently-filed unfair labor practice charge. The Board held the employer acted lawfully because the information request was "akin to a discovery device pertinent to [the union's] pursuit of the unfair labor practice charges rather than to its duties as collective-bargaining representative." *Id.* at 617-18; *see also Southern Cal. Gas Co.*, 342 NLRB 613, 613-15 (2004) (employer lawfully refused to provide documents to union where the union intended to use the documents to represent employees before another agency); *Union-Tribune Publishing Co.*, 307 NLRB 25, 26 n.6 (1992) (employer properly refused to provide information to union concerning an employee suspension and discharge where the employer "could reasonably have believed that [the suspension and discharge] might become the subject of a Board complaint"); *Pepsi-Cola Bottling Co.*, 315 NLRB 882, 882 (1994) (even though the unfair labor practice charge was filed after the union sought information relating to the employee's termination, the employer was not required to respond because it was "plain that the information was sought because of its relationship to the charge").

Here, Charging Party not only filed the charge in Case 04-CA-102165 challenging Fenstermaker's one-day suspension (Exhibit D), but Bonser also stated in his August 14 letter

that the Charging Party's purpose in requesting the information was to determine whether to pursue a claim of "*unfair and/or discriminatory*" treatment "in bargaining with the Employer, *or in another forum.*" (GC Exhibit 5, emphasis added.) The record of Charging Party's first charge challenging Fenstermaker's suspension, combined with Bonser's statement concerning Charging Party's improper purpose, raise genuine issues of fact warranting a hearing. Accordingly, the General Counsel's Motion for Summary Judgment should be denied.

IV. CONCLUSION

Respondent respectfully requests that the Board deny the General Counsel's Motion for Summary Judgment. If the Supreme Court affirms *Noel Canning*, the Board also should dismiss the complaint. If the Supreme Court reverses *Noel Canning*, the Board should remand the matter for an evidentiary hearing before an administrative law judge on the remaining issues.

Dated: April 25, 2014

BALLARD, ROSENBERG, GOLPER, & SAVITT

By: _____
MATTHEW T. WAKEFIELD
Attorneys for Respondent
SANDS BETHWORKS GAMING, LLC
d/b/a/ SANDS CASINO RESORT BETHLEHEM

Exhibit A

SANDS SECURITY OFFICERS
MONTHLY UNION MEETING

Wednesday, February 15, 2012

TIMES:	7:30 a.m.	WHERE:	Comfort Inn
	1:00 p.m.		3 rd Street
	3:30 p.m.		Bethlehem, PA

Nominations will be held for three positions for negotiating committee. Also nominations will be held for the positions of: President, Vice-President/Chief Steward, Recording Secretary and two Shop Stewards for each shift. Elections will be held Wednesday, March 21, 2012.

Exhibit B

[Home](#)

Welcome

Welcome to the Law Enforcement Employees Benevolent Association Local 777 web site. This site is being developed for the purpose of bringing unity and information to the employees of the Sands Resort and Casino of Bethlehem, PA who comprise Local 777 of LEEBA. Here they can find minutes of meetings, view a calendar of events, use forums for sharing information and ideas, help in the decision making process by using polls, and other tools and services to support their work.

We hope you enjoy your visit and learn more about us as we do our part to serve our employer, ourselves, and the communities in which we live. We also hope you'll support our efforts to keep the working people of this great country gainfully employed and prosperous enough to make positive differences in our local and global communities.

[Home](#)

Union Made in America

As we are unionized workers among those hoping to return the working class people of this country to a financial state where home ownership and college education are attainable goals, we must support each other. We can not spend our hard earned dollars supporting companies that outsource U.S. jobs to other countries and those companies that reduce the standard of living here by paying employees minimum wages so profits can go to the "shareholders" before employees (for example) can have health care.

This is a partial list of U.S. companies that employ unionized workers here at home to produce products Americans use everyday.

- **Gulden's Mustard**
 - **Heinz Catsup**
 - **Ken's Salad Dressings**
 - **Arizona Iced Tea**
-



LEEBA Local 777

[Home](#)[Made In USA](#)[About Us](#)[Home](#)

About Us

This is the web site of the people providing security services to the patrons of the Sands Resort and Casino of Bethlehem, PA. We have organized as local 777 of the Law Enforcement Employees Benevolent Association (<http://www.leeba.org>) as a union of workers dedicated to serving our employers, The Sands, our community, and our friends and families.

[Home](#)[Made in USA](#)[About Us](#)

LEEBA Local 777

[Home](#)[User account](#)[Log in](#)[Request new password](#)**Username ***

Enter your LEEBA Local 777 username.

Password *

Enter the password that accompanies your username.

Exhibit C

FORM LM-3 LABOR ORGANIZATION ANNUAL REPORT

FOR USE ONLY BY LABOR ORGANIZATIONS WITH LESS THAN \$260,000 IN TOTAL ANNUAL RECEIPTS

This report is mandatory under P.L. 86-257, as amended. Failure to comply may result in criminal prosecution, fines, or civil penalties as provided by 29 U.S.C. 439 or 440.

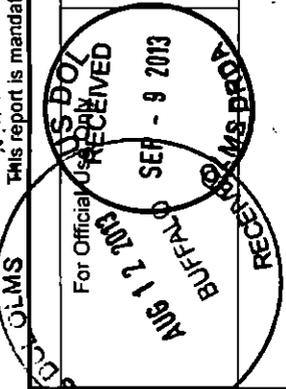
READ THE INSTRUCTIONS CAREFULLY BEFORE PREPARING THIS REPORT.

1. FILE NUMBER: 544-264

2. PERIOD COVERED: From MO 01 DAY 01 YEAR 2012 Through MO 12 DAY 31 YEAR 2012

3. (a) AMENDED — If this is an amended report correcting a previously filed report, check here:

(b) TERMINAL — If your organization ceased to exist and this is its terminal report, see Section XII of the instructions and check here:



8. MAILING ADDRESS (Type or print in capital letters.)

First Name: KENNETH
Last Name: WYNDER
P.O. Box - Building and Room Number (if any):
Number and Street: 277 MAIN STREET
City: CATSKILL
State: NY ZIP Code + 4: 12414-1512

4. AFFILIATION OR ORGANIZATION NAME: LAW ENFORCEMENT EMPLOYEES BEN ASS.

5. DESIGNATION (Local, Lodge, etc.):
6. DESIGNATION NUMBER:
7. UNIT NAME (if any):

9. Are your organization's records kept at its mailing address? Yes No
(If "No," provide address in Item 56.)

56. ADDITIONAL INFORMATION (If more space is needed, attach additional pages properly identified.)

Item Number: 19
DESCRIPTION: DECEASED WE NO LONGER REPRESENT SEAGATE POLICE OFFICER NOR ANY OTHER PRIVATE SECTOR UNDER THE NATIONAL LABOR BOARD.

Each of the undersigned, duly authorized officers of the above labor organization, declares, under penalty of perjury and other applicable penalties of law, that all of the information submitted in this report (including the information contained in any accompanying documents) has been examined by the signatory and is, to the best of the undersigned's knowledge and belief, true, correct, and complete. (See Section VI of the instructions.)

57. SIGNED: [Signature] PRESIDENT 58. SIGNED: [Signature] TREASURER
(If other title, see instructions.) (If other title, see instructions.)
08/08/2013 (518) 943-5065 08/08/2013 (518) 943-5065
Date Date Telephone Number Telephone Number

24. ALL OFFICERS AND DISBURSEMENTS TO OFFICERS

Enter Amounts in Dollars Only — Do Not Enter Cents

FILE NUMBER:

544 - 264

(A) Name <i>(List all persons who held office during the reporting period even if they received no salary or other disbursements. Use all capital letters.)</i>	(B) Title <i>(Enter title of officer, such as PRESIDENT or TREASURER.)</i>	Status (C)*		Gross Salary (before taxes and other deductions) (D)	Allowances and Other Disbursements (E)	Total (F)
		MI	(C)*			
1. WYNDER PRESIDENT	KENNETH A		C	0	0	0
2. ANDREANI VICE PRESIDENT	JOSEPH A		C	0	0	0
3. MELETICHE 1ST VICE PRESIDENT	ROBERT		C	0	4300	4300
4. WHITTICK TREASURER	STEFEN		C	0	0	0
5. LUCK RECORDING SECRETARY	PETER		C	0	0	0
6.						
7.						
8. Totals from additional pages (if any)				0		
9. Totals of Lines 1 through 8						
Enter the total from Line 11 in				Item 45	10. Less Deductions	
					11. Net Disbursements	

*Code for Status (C): past officer — P; continuing officer — C; new officer during the reporting period — N. (If any officer was not elected at a regular election in accordance with your organization's constitution and bylaws, explain in Item 56 on page 1.)

Enter Amounts in Dollars Only — Do Not Enter Cents

FILE NUMBER: 544 - 264

STATEMENT A ASSETS AND LIABILITIES		Start of Reporting Period (A)	End of Reporting Period (B)	LIABILITIES Item	Start of Reporting Period (C)	End of Reporting Period (D)
ASSETS						
Item						
25. Cash.....				32. Accounts Payable.....		
26. Loans Receivable.....				33. Loans Payable.....		
27. U.S. Treasury Securities.....				34. Mortgages Payable.....		
28. Investments.....				35. Other Liabilities.....		
29. Fixed Assets.....				36. TOTAL LIABILITIES..		
30. Other Assets.....				37. NET ASSETS (Item 31 less Item 36)...		
31. TOTAL ASSETS.....						

STATEMENT B RECEIPTS AND DISBURSEMENTS		CASH RECEIPTS	AMOUNT	CASH DISBURSEMENTS	AMOUNT
Item				Item	
38. Dues.....			6800	45. To Officers (from Item 24).....	4300
39. Per Capita Tax.....			0	46. To Employees (less deductions).....	0
40. Fees, Fines, Assessments & Work Permits.....			0	47. Per Capita Tax.....	0
41. Interest & Dividends.....			0	48. Office & Administrative Expense.....	0
42. Sale of Investments & Fixed Assets.....			0	49. Professional Fees.....	2500
43. Other Receipts.....			0	50. Benefits.....	0
44. TOTAL RECEIPTS.....			6800	51. Contributions, Gifts & Grants.....	0
<p>If total receipts reported in Item 44 are \$250,000 or more, your organization must file Form LM-2 instead of this form.</p>				52. Purchase of Investments & Fixed Assets.....	0
				53. Loans Made.....	0
				54. Other Disbursements.....	0
				55. TOTAL DISBURSEMENTS.....	6800

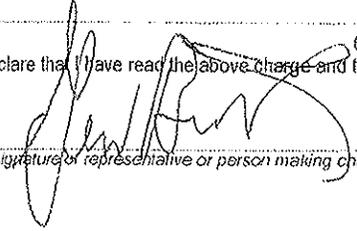
Exhibit D

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
04-CA-102165	4/8/13

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Sands Casino Resort Bethlehem	b. Tel. No. 484-777-7777
	c. Cell No.
	f. Fax No.
d. Address (Street, city, state, and ZIP code) 77 Sands Boulevard Bethlehem, Pa. 18015	e. Employer Representative Kathy Birkbeck Human Resources Dept.
	g. e-Mail
	h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) Casino	j. Identify principal product or service Legalized Gambling
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Security Officer Tyler Fenstermaker TM# 34073 Has been accused of "Use of profanity with or in the presence of guests." Statements collected from employees OUTSIDE of the Security Department that were with Officer Fenstermaker indicated he had used profanity. One (1) improper word was said to be used. Ms. Birkbeck had told Tyler and his union representative in a meeting that the statements collected were conflicting but nonetheless dealt a penalty of a one (1) day suspension without pay. Tyler has in no way admitted to his guilt. When Officer Fenstermaker requested copies of the statements collected to prepare his defense, he was denied. Date of meeting with Human Resources - 2/25/2013 Date of suspension - 3/04/2013	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) George Bonser, Lead Delegate Law Enforcement Employees Benevolent Association (LEEBA)	
4a. Address (Street and number, city, state, and ZIP code) 2116 Birch St. Easton, Pa 18042	4b. Tel. No. 610-393-2356
	4c. Cell No. 610-393-2356
	4d. Fax No.
	4e. e-Mail gwbonz3@aol.com
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. By  George Bonser, Lead Delegate LEEBA (signature of representative or person making charge) (Print type name and title or office, if any)	
2116 Birch St, Easton, Pa. 18042	
3/20/2013	
Address (date)	
Tel. No.	
Office, if any, Cell No. 610-393-2356	
Fax No.	
e-Mail	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Exhibit E



July 12, 2013

George Bonser
2116 Birch Street
Easton, PA 18042

Dear Mr. Bonser:

I am writing in reply to your letter to me dated June 24, 2013 in which you request that I send you "copies of all witness statements that were received by [me] concerning the February 10, 2013 write-up of Security Officer Tyler Fenstermaker, TM #34073, which led to his PIP and Career Decision Day." At the outset, I must ask that you specify in what capacity you are seeking any copies of documents related to employment matters at the Sands Casino Resort. As you are aware, the Company has not recognized LEEBA as a bargaining representative for any of its employees. Furthermore, as you also are aware, the current litigation to determine if LEEBA was legally certified by the National Labor Relations Board to represent any employees at the Company has been ordered to be held in abeyance pending further notice from the United States Court of Appeals for the District of Columbia Circuit as of January 25, 2013. The Company will not disregard the lawful order of the D.C. Circuit Court, even if others may choose to do so. With the uncertain status of the NLRB's authority at this moment, the Company cannot be expected to put itself in the legally precarious position of providing private personnel information regarding its employees to an entity that the Supreme Court ultimately determines had no lawful right to claim to represent the Company's employees.

Even if the Company were under an obligation to comply with your request, we could not do so because of the ambiguities in your request. For example, you do not identify or define what you mean by: a) "witness statements" (i.e., "witness statements" as to what? The wording of your letter seems to imply that you are seeking statements from persons who witnessed the actual "write-up" of Mr. Fenstermaker. Is that what you seek?); b) "received by you" (e.g., do you mean "witness statements" received by me in writing but not any "witness statements" that may have been made to me verbally? Are you asking for the creation of documents that may not exist?); "the February 10, 2013 write-up of [Mr.] Fenstermaker . . . which led to his PIP and Career Decision Day." (i.e.,

what do you mean by the term "write- up"? Is that a reference to the PIP and/or the Career Decision Day?)

To summarize, the Company declines to respond to your request because it has no lawful obligation to do so and in any case, your request lacks clarity such that the Company could not give a proper response even if it were obligated to do so.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Birkbeck". The signature is fluid and cursive, with the first name being more prominent.

Kathleen Birkbeck
Team Member Relations Manager

cc: Mickey Trageser
Jim Dougherty

Exhibit F

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**

Case

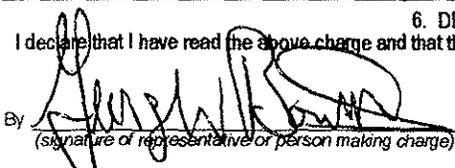
04-CA-110532

Date Filed

8/2/13

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Sands Casino Resort Bethlehem	b. Tel. No. 484-777-7777
	c. Cell No.
	f. Fax No.
d. Address (Street, city, state, and ZIP code) 77 Sands Blvd. Bethlehem, Pa. 18015	e. Employer Representative Kathleen Birkbeck Team Member Relations Manager
	g. e-Mail
	h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) Casino	j. Identify principal product or service Gambling
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Ms. BIRKBECK was sent a request on 6/24/2013 requesting copies of witness statements made in the case of Tyler FENSTERMAKER, Security Officer, team member #34073 who received a "write-up" on February 10, 2013 which led to a one (1) day suspension without pay. I received on July 13, 2013 a confusing reply from Ms. BIRKBECK which stated the company was not obligated to honor my request. COPIES ENCLOSED	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) George W. Bonser Lead Delegate, Law Enforcement Employees Benevolent Association (LEEBA)	
4a. Address (Street and number, city, state, and ZIP code) 2116 Birch St. Easton, Pa. 18042	4b. Tel. No. 610-393-2356
	4c. Cell No. 610-393-2356
	4d. Fax No.
	4e. e-Mail gwbonz3@aol.com
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Law Enforcement Employees Benevolent Association (LEEBA)	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By  (signature of representative or person making charge)	George W. Bonser /Lead Delegate, LEEBA (Print type name and title or office, if any)
	Tel. No.
	Office, if any, Cell No. 610-393-2356
	Fax No.
	e-Mail gwbonz3@aol.com
Address 2116 Birch St Easton Pa 18042	07/30/2013 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Exhibit G



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 04
615 Chestnut St Ste 710
Philadelphia, PA 19106-4413

Agency Website: www.nlr.gov
Telephone: (215)597-7601
Fax: (215)597-7658

August 29, 2013

MATTHEW T. WAKEFIELD, ESQUIRE
BALLARD ROSENBERG GOLPER & SAVITT, LLP
1200 NEW HAMPSHIRE AVE NW, 3RD FLOOR
WASHINGTON, DC 20036-6818

CALVIN SIEMER, ESQUIRE
THE VENETIAN CASINO RESORT, LLC
3355 LAS VEGAS BOULEVARD SOUTH
LAS VEGAS, NV 89109

Re: SANDS CASINO RESORT BETHLEHEM
Case 04-CA-110532

Dear Mr. Wakefield and Mr. Siemer:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

A handwritten signature in cursive script that reads "Dennis P. Walsh".

DENNIS P. WALSH
Regional Director

cc: GEORGE BONSER, LEAD DELEGATE
LAW ENFORCEMENT EMPLOYEES
BENEVOLENT ASSOCIATION (LEEBA)
2116 BIRCH ST
EASTON, PA 18042-5449

KATHLEEN BIRKBECK, TEAM MEMBER
RELATIONS MANAGER
SANDS CASINO RESORT BETHLEHEM
7 SANDS BLVD
BETHLEHEM, PA 18015

DPW/jmd

PROOF OF SERVICE

On April 25, 2014, I served the foregoing document described as: **RESPONDENT'S OPPOSITION TO GENERAL COUNSEL'S MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO BOARD'S NOTICE TO SHOW CAUSE** via e-mail to:

- 1) Terrence P. Dwyer, Esq., counsel for Charging Party, at tpdlaw@aol.com; and
- 2) Edward J. Bonett Jr., Esq., counsel for the General Counsel at edward.bonettJr@nlrb.gov.

I declare under penalty of perjury that the foregoing is true and correct under the laws of the United States of America. Executed on April 25, 2014.

By: _____
Matthew T. Wakefield