



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 4
615 Chestnut St Ste 710
Philadelphia, PA 19106-4413

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

Agent's Direct Dial: (215)597-7657

January 20, 2015

Gary Shinnars, Executive Secretary
National Labor Relations Board
Office of the Executive Secretary
National Labor Relations Board
Washington D.C. 20570-0001

Re: Sands Bethworks Gaming
Case 04-CA-076289

Dear Mr. Shinnars:

This is to advise you that I have efiled General Counsel's Answer to Respondent's Renewed Opposition To General Counsel's Motion For Summary Judgment. Copies of the Answer have been served on counsel by email: Terrence P. Dwyer, Esq, (Counsel for Charging Party) at tpwlaw@aol.com, and Matthew T. Wakefield (Counsel for Respondent) at mwakefield@brgslaw.com.

Very truly yours,

A handwritten signature in black ink that reads "Peter C. Verrochi".

PETER C. VERROCHI
Counsel for the General Counsel

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

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

and

Case -4-CA-076289

LAW ENFORCEMENT EMPLOYEES
BENEVOLENT ASSOCIATION

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

Respondent's Renewed Opposition To General Counsel's Motion For Summary Judgment And Renewed Response To Board's Notice To Show Cause does not raise a substantial and material issue with respect to its contentions that (1) the certification of LEEBA (Law Enforcement Employees Benevolent Association) contravenes Section 9(b)(3) of the Act, and (2) LEEBA has disclaimed interest in representing the subject bargaining unit or that it has transferred its bargaining rights to another labor organization. Essentially, Respondent has cobbled together a flimsy and speculative narrative based on dated and extraneous items of information that, ultimately, have no bearing on the Union's current composition, direction or plans with respect to compliance with Section 9(b)(3) or the Union's future representation of employees in the bargaining unit. Accordingly, there is no basis to warrant an evidentiary hearing in this matter, and Respondent's Opposition to General Counsel's Motion for Summary Judgment and the Board's Notice To Show Cause should be denied.

First, Respondent's contention that the certification of LEEBA violates Section 9(b)(3) has previously been litigated and reviewed, and determined to lack merit. In *Sands Bethworks Gaming, LLC*, 361 NLRB No. 102 (2014), the Board reviewed the representation proceedings in Case 04-RC-021833 and adopted the Decision and Certification of Representative issued on February 10, 2012, which determined, inter alia, that the Union was not disqualified under Section 9(b)(3) from representing the unit of Respondent's guards.

Respondent has not established that a genuine issue of material fact exists warranting a hearing with respect to whether the Union is currently operating in contravention of Section 9(b)(3). Respondent's position is based entirely on alleged past statements, which are now stale, by George Bonser, who, at the time of the alleged statements, was employed by the Respondent in the certified bargaining unit. Respondent asserts that Bonser claimed in February 2012—over two years ago—to be President of the Petitioner,¹ allegedly asserting that the Union would be replaced by a labor organization that he or the United Steelworkers would control.

However, the record in the representation case proceeding established that the President of the Petitioner is Kenneth Wynder. The Union's LM-3 report from 2013 (Respondent's Opposition Exhibit D) is signed by Wynder as the Union's President. Wynder, as President of the Union, made a renewed demand, by letter dated December 5, 2014 (see General Counsel's Exhibit A), to the Employer to bargain with the Union. Apart from Bonser's

¹ In fact, Bonser is a mere "delegate" of the Union and functions as a liaison between bargaining unit employees and the Union. The Union has never identified Bonser to Respondent as the Union's on site representative and has never vested Bonser with any authority to speak for the Union on collective bargaining matters. (See Affidavit of Peter Luck, General Counsel's Exhibit B). The Employer makes no claim to the contrary.

alleged assertion that he is President of the Union, Respondent has presented no evidence that Bonser, in fact, holds or ever held that position. In addition, there is no evidence that the Union has otherwise designated Bonser the spokesperson for the Union in collective bargaining matters. Therefore, notwithstanding any contrary claims that Bonser may have made, there can be no dispute that Wynder, not Bonser, is the Union's President. Accordingly, Bonser's alleged statements from two years ago and his supposed plans for the Union, including his alleged plan to replace the Union and substitute in its place a labor organization that would be controlled by Bonser or the Steelworkers, are irrelevant and not probative of the Union's intentions with respect to the matters being litigated before the Board.

LEEBA Local 777, whatever else it may be, is not, in fact, an authorized local or representative of the Union, and the Union has never held out LEEBA Local 777 to be a collective bargaining representative of the Union. (See Affidavit of Peter Luck, General Counsel's Exhibit B). Moreover, Respondent has presented no evidence that LEEBA Local 777 actually functioned as a labor organization or that it represented employees in collective bargaining matters. Similarly, the website www.leeba777.org was not established by the Union. Rather, it was the idea of Bonser and other bargaining unit employees as a social medium for employee communications. (See Affidavit of Peter Luck, General Counsel's Exhibit B). Respondent has not accessed the website since May 4, 2012—over two years ago. The website www.leeba777.org is now defunct, and there is no evidence that it continued in

operation past 2012.² (See Affidavit of Peter Luck, General Counsel's Exhibit B). Again, other than the self-serving claims and assertions reflected at the website www.leeba777.org—in May of 2012—there is no independent support for the contention that there was, or is, a bona fide labor organization called LEEBA Local 777 or that such labor organization represented, or represents, any employees anywhere. The now defunct website represented, at most, an internet idea—a virtual, as opposed to an actual, entity.³

Respondent relies on the content of the website and the references to so-called nonguard employees and issues to support its contention that LEEBA Local 777 intends to represent nonguard employees in violation of Section 9(b)(3). However, notwithstanding that LEEBA 777 is not affiliated with the Union and the absence of any evidence that LEEBA Local 777 is a bona fide labor organization, nothing in the website states affirmatively that LEEBA Local 777 does or will represent employees who are not guards within the meaning of the Act. The website's stock references to presumed nonguard employees and the general call for all workers to engage in mutual aid and support, including the patronization of unionized American companies, is hardly enough to deny the Union certification based on Respondent's 9(b)(3) attack.

² The Union's website, which lists "Sands Casino Security" as one of its bargaining units, is www.LEEBA.org. (See Affidavit of Peter Luck, General Counsel's Exhibit B).

³ Contrary to the subject case, in *Brink's, Inc. of Florida*, 276 NLRB 1 (1985), the respondent employer had an ongoing relationship with the nonguard union that was allegedly affiliated with the petitioner union, and the president of the nonguard union, at a bargaining session with respondent employer, claimed to be empowered to negotiate for guard employees at that bargaining session. Thus, in *Brink's*, there was an immeasurably greater basis than here for finding "a substantial and material issue regarding the Union's possible affiliation with an organization that admits nonguards to membership." No such claim of "special circumstances" can be made on the basis of LEEBA Local 777's ephemeral and perhaps illusory internet existence and the clearly erroneous claims that Bonser is the Union's President.

Finally, there is no evidence or claim that the Union has ever explicitly disclaimed interest in representing the bargaining unit. Rather, Respondent argues that the alleged existence of LEEBA Local 777 and the absence in the Union's LM-3 form in 2013 of any reference to the guards unit at Respondent's facility warrant the inference that the Union disclaimed interest in representing the unit. However, following the issuance of the Board's decision and Notice To Show Cause, the Union, via Union President Wynder's December 5, 2014 letter, renewed its prior request to the Employer to finally recognize and bargain with the Union. The Union's renewed request to bargain is alone sufficient to rebut the claim that the Union has disclaimed interest in the unit.⁴

Based on the foregoing, the Board should grant the General Counsel's Motion for Summary Judgment and order Respondent to recognize and bargain with the Union with respect to the employees in the unit certified in Case 04-RC-021833 and grant such other and further relief as may be appropriate.

Signed at Philadelphia, Pennsylvania this ^{20th} day of January, 2015.



Peter C. Verrochi
Counsel for the General Counsel
National Labor Relations Board
Region Four (tel. **215-597-7640**)
peter.verrochi@nlrb.gov

⁴ As to the LM-3 form in which the Union failed to disclose that it represents the bargaining unit at Respondent's facility, the Union has explained that it mistakenly assumed that it was not required to disclose its representation of employees for whom it was not receiving dues or other monetary payments or contributions (see Affidavit of Peter Luck, attached as Exhibit B). This is hardly tantamount to a disclaimer of interest, and Respondent has cited no authority to the contrary.

277 Main Street
Suite 1
Catskill, NY 12414
Phone: (518)
943-5065
Fax: (866) 554-9326



18 North 7th Street
Stroudsburg, PA 18360
Phone: (570) 872-9150
Fax: (866) 554-9326

LAW ENFORCEMENT EMPLOYEES BENEVOLENT ASSOCIATION

December 5, 2014

Mark Juliano, President
Sands Casino Resort Bethlehem
77 Sands Blvd Bethlehem, PA 18015

Dear Mr. Juliano:

On November 12, 2014, the National Labor Relations Board rendered its decision regarding Sands Bethworks Gaming, LLC, d/b/a Sands Casino Resort Bethlehem, and the Law Enforcement Employees Benevolent Association, cases 04-CA-076289 and 04-RC 0211833. The Board has determined that the Certificate of Representation for Law Enforcement Employees Benevolent Association for Sands security employees stands.

This letter is to request a future negotiation session between L.E.E.B.A. and Sands Casino. I would like for us to exchange a list of possible dates for contract negotiations. Please feel free to contact me at 845 707-0961 or email kwynder@leeba.org and at L.E.E.B.A., 277 Main Street, Suite 1 Catskills NY 12414. Thank you in advance for your prompt attention to this matter.

Very truly yours,

L.E.E.B.A. President

A handwritten signature in black ink, appearing to read 'Kenneth Wynder', written over a horizontal line.

Kenneth Wynder

9) LEEBA did not create, was not involved in and did not sanction the website www.leeba777@org.

10) LEEBA Local 777 and www.leeba777.org were the idea of Bonser and other bargaining unit employees as a means of facilitating communication among bargaining unit employees.

11) The website www.leeba777.org was deactivated in approximately mid-2012.

12) The union's website is www.LEEBA.org. It lists Sands Casino Security as one of its bargaining units.

13) The LM-3 that was submitted for 2013 did not include the Union's representation of the bargaining unit because the Union was not at that time collecting dues from those employees and the Sands was, in fact, refusing to recognize the Union as the unit's collective bargaining representative.

Dated: January 17, 2015



Peter Luck

Sworn to before me this 17th
day of January 2015.

Lori A Dewitt
Notary Public

