



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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September 3, 2015

Gary W. Shinnars, Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570

Re: Sands Bethworks Gaming LLC d/b/a
Sands Casino Resort Bethlehem
Case 04-CA-076289

Dear Mr. Shinnars:

Enclosed please find Counsel for the General Counsel's Motion to Amend the Complaint with attachments in this matter. Copies of this document are being e-mailed to Counsel for the parties as indicated below.

Very truly yours,

HENRY R. PROTAS
Counsel for the General Counsel
(215) 597-7652

cc:

Matthew Wakefield, Esq., mwakefield@brgslaw.com
Terrence Dwyer, Esq., TPDLAW@AOL.COM

**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 04-CA-076289

LAW ENFORCEMENT EMPLOYEES
BENEVOLENT ASSOCIATION

MOTION TO AMEND THE COMPLAINT

Counsel for the General Counsel, pursuant to Sections 102.17 and 102.45 of the Rules and Regulations of the National Labor Relations Board, herein called the Rules and the Board, respectively, hereby moves to file an Amended Complaint in the above-captioned matter and submits the following in support of the Motion:

1. On November 12, 2014, the Board issued its Decision, Certification of Representative, and Notice to Show Cause in this matter (reported at 361 NLRB No. 102).
2. In the Notice to Show Cause, the Board observed that the positions taken by the parties earlier in the proceeding may have changed. Thus, Respondent might now intend to commence bargaining. Further, the parties might wish to apprise the Board of events that occurred during that pendency of the litigation that warrant its attention.
3. To address the possibility that the positions taken by the parties earlier in the proceeding may have changed or that Respondent might now intend to commence bargaining, the Board in

its November 12, 2014 Decision granted the General Counsel leave to amend the Complaint to conform its content to the current state of the evidence.

4. Although the time has passed for filing an amended Complaint under the Board's Decision, Counsel for the General Counsel seeks the Board's leave to issue an amended Complaint in this matter based on further investigation that establishes that Respondent continues its refusal to recognize and bargain with the Union after the Board's latest certification set forth in *Sands Casino Resort Bethlehem*, 361 NLRB No 102 (2014).

5. By letter dated December 5, 2014, appended hereto as Attachment A, the Union requested that the parties schedule negotiation sessions. The request appeared to be prompted by the Board's Decision referred to above.

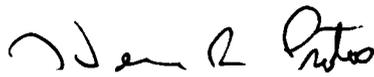
6. Upon information, belief, and communications, the undersigned Counsel for the General Counsel represents that Respondent has not answered the Union's request, in writing or verbally. Respondent's failure or refusal in this regard, and the Union's recent expression of a desire to commence negotiations, should be undisputed. That is the current state of the evidence in this case.

7. In order to enable the Board to consider the new events described above in paragraphs 5 and 6, Counsel for the General Counsel requests that the Amended Complaint in this matter, appended hereto as Attachment B, be included in the record. Counsel for the General Counsel seeks to amend the Complaint to allege Respondent's refusal to bargain after the Board's latest certification. Should the Board grant this Motion, Counsel for the General Counsel respectfully requests that the Amended Complaint include in its Order an instruction that Respondent's Answer to the Amended Complaint be filed within 14 days of the Board's Order.

8. On December 29, 2014, Respondent filed with the Board a document entitled “Renewed Opposition To General Counsel’s Motion For Summary Judgment And Renewed Response To Board’s Notice To Show Cause.” On January 20, 2015, Counsel for the General Counsel filed its “Answer to Respondent’s Renewed Opposition To General Counsel’s Motion For Summary Judgment And Renewed Response To Board’s Notice To Show Cause.” This matter is currently pending before the Board.

WHEREFORE, Counsel for the General Counsel respectfully requests that the Motion to Amend the Complaint should be granted, that the facts set forth above should be accepted as the current state of the evidence, and that the record in this matter should include these developments.

Signed at Philadelphia, Pennsylvania on this 3rd day of September, 2015.



HENRY R. PROTAS
Counsel for the General Counsel
National Labor Relations Board, Region 4
615 Chestnut Street, 7th Floor
Philadelphia, Pennsylvania 19106

Attachments

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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@leeeba.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

**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 04-CA-076289

LAW ENFORCEMENT EMPLOYEES
BENEVOLENT ASSOCIATION

AMENDED COMPLAINT

A Complaint and Notice of Hearing having been issued in the above-captioned matter on March 19, 2012,

IT IS ORDERED, pursuant to Section 102.17 of the Board's Rules and Regulations, that the Complaint be amended as follows:

1. The charge in this proceeding was filed by Law Enforcement Employees Benevolent Association, herein called the Union, on March 12, 2012, and a copy was served by first class mail on Sands Bethworks Gaming, LLC d/b/a Sands Casino Resort Bethlehem, herein called Respondent, on March 12, 2012.

2. (a) At all material times, Respondent has operated a casino and hotel at 77 Sands Boulevard in Bethlehem, Pennsylvania, herein call the Resort.

(b) During the past 12-month period, Respondent received gross revenues in excess of \$500,000 and purchased and received at the Resort goods valued in excess of \$5,000 directly from points outside the Commonwealth of Pennsylvania.

(c) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, Holly Eicher and Mark Juliano held the positions of Respondent's Vice President-General Counsel and Respondent's President, respectively, and have been agents of Respondent within the meaning of Section 2(13) of the Act.

5. (a) The following employees of Respondent at the Resort, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time security guards employed by Respondent at its Resort located at 77 Sands Boulevard, excluding the locksmith, all other employees and supervisors as defined in the Act.

(b) On February 10, 2012, the Union was certified as the exclusive collective-bargaining representative of the Unit.

(c) At all times since February 10, 2012, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

6. By letter to Holly Eicher dated March 2, 2012, the Union requested Respondent to recognize it as the exclusive collective-bargaining representative of the Unit and to bargain with it concerning the wages, hours and other terms and conditions of employment of the Unit.

7. On or about March 6, 2012, Respondent, by letter of Holly Eicher, notified the Union that it refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

8. On November 12, 2014, the Board issued a Decision, Certification of Representative, and Notice to Show Cause (reported at 361 NLRB No. 102), in which it certified the Union as the exclusive collective-bargaining representative of the Unit.

9. On or about December 5, 2014, the Union, by letter to Mark Juliano, requested that Respondent recognize it as the exclusive collective-bargaining representative of the Unit and to bargain with it concerning the wages, hours and other terms and conditions of employment of the Unit.

10. Since on or about December 5, 2014, the Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

11. By the conduct described above in paragraphs 7 and 10, Respondent has been refusing to bargain collectively with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

12. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the amended complaint. The answer must be **received by this office on or before 14 days from this date of the Board's Order granting Counsel for the General Counsel's Motion to Amend Complaint, or postmarked one day before that date.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to an amended complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

Signed at Philadelphia, Pennsylvania on this 3rd day of September, 2015.



DENNIS P. WALSH

Regional Director, Fourth Region
National Labor Relations Board