

**UNITED STATES COURT OF APPEALS
FOR THE
DISTRICT OF COLUMBIA**

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THE MIRAGE CASINO-HOTEL, LLC)	
d/b/a THE MIRAGE)	
Petitioner,)	
)	Case No. 16-1192
v.)	
)	
NATIONAL LABOR RELATIONS)	
BOARD,)	
)	
Respondent.)	
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STATEMENT OF ISSUES TO BE RAISED

Pursuant to the Court’s June 20, 2016 Order, Petitioner The Mirage Casino-Hotel, LLC (“Mirage”) hereby submits its Statement of Issues to be Raised:

1. Whether the National Labor Relations Board’s (hereinafter the “NLRB” or the “Board”) finding that Petitioner violated Sections 8(a)(5) and 8(a)(1) of the National Labor Relations Act (hereinafter the “Act”) by failing and refusing to bargain with International Union of Operating Engineers Local 501, AFL-CIO (the “Union”) should be denied enforcement because the Board’s underlying decision certifying the Union as the collective bargaining representative for a group of surveillance technicians is both contrary to prevailing law and not supported by substantial evidence.

2. Whether the Board's certification of the Union was invalid because the Union's petition for representation did not comply with Section 102.61(a)(8) of the Board's recently enacted representation regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954) (holding that an administrative agency's failure to comply with its own rules is a violation of due process).

3. Whether the Board's certification of the Union was invalid because the employees at issue – surveillance technicians who oversee and are responsible for the installation, maintenance and operation of Mirage's surveillance and security systems – should have been deemed “confidential” employees outside of the Act's coverage. *See NLRB v. Hendricks County Rural Elec.*, 454 U.S. 170 (1981).

CERTIFICATE OF SERVICE

In addition to filing this **Statement of Issues to be Raised** in the above captioned matter via the Court's electronic filing system, we hereby certify that copies have been served this 20th day of July, 2016, by First Class Mail, upon:

Mr. Gary Shinnors
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/s/ Emily Santiago
An Employee of Jackson Lewis P.C.