

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES**

**LABOR PLUS, LLC, AND ITS SUCCESSOR
WYNN LAS VEGAS, LLC**

and

Case 28-CA-161779

LABOR PLUS, LLC

and

Case 28-CA-166571

WYNN LAS VEGAS, LLC

and

Case 28-CA-166890

**INTERNATIONAL ALLIANCE OF
THEATRICAL STAGE EMPLOYEES
AND MOVING PICTURE TECHNICIANS,
ARTISTS AND ALLIED CRAFTS OF THE
UNITED STATES AND CANADA
LOCAL UNION 720 (IATSE)**

**ORDER ON PETITIONS TO REVOKE
SUBPOENAS B-1-TWTEIJ, B-1-TWTFZB, and A-1-TWTO9N**

August 31, 2016, the Regional Director for Region 28 issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing (Complaint) alleging that Wynn Las Vegas, LLC (Wynn), and Labor Plus, LLC violated Sections 8(a)(1) and (5) of the Act by refusing to recognize and bargain with IATSE Local Union 720 (Union). The hearing is scheduled to commence on November 3, 2016.

In anticipation of the scheduled hearing, Wynn issued three subpoenas to the National Labor Relations Board: Subpoena Duces Tecum B-1-TWTEIJ, served upon the Custodian of Records for NLRB Region 28, and requiring the production of various records and documents; Subpoena Duces Tecum B-1-TWTFZB, served upon the Custodian of Records for the NLRB Office of Appeals, and requiring the production of various records and documents; and Subpoena A-1-TWTO9N, addressed to the "Person Most Knowledgeable," served upon NLRB Region 28, and requiring the unidentified individual to appear and testify in this matter.

The General Counsel filed timely petitions to revoke all three subpoenas, alleging various defenses, including that Wynn failed to comply with Section 102.118(a)(1) of the Board's Rules and Regulations. Wynn did not file an opposition to the General Counsel's petitions.

Section 102.118(a)(1) of the Board's Rules and Regulations prohibit present and former Board employees from testifying, or producing files or records, pursuant to subpoena without the written consent of the Board or the General Counsel. The validity of Section 102.118's proscription is well settled. *Midwest Hanger Co.*, 221 NLRB 991 n. 4 (1975); *Howard Johnson Co.*, 250 NLRB 1412 n. 2 (1980); *Smithfield Packing Co., Inc.*, 334 NLRB 34 (2001); *Davis v. Braswell Motor Freight Lines*, 363 F.2d 600,602-03 (5th Cir. 1966) (subpoena to a Regional Director quashed for failure to request the General Counsel's prior consent as required by §102.118). Because Wynn failed to secure written consent as required by Section 102.118, the General Counsel's petitions to revoke Subpoenas B-1-TWTEIJ, B-1-TWTFZB, and A-1-TWTO9N are GRANTED. The subpoenas are quashed in their entirety.

Dated: San Francisco, California
October 31, 2016



John T. Giannopoulos
Administrative Law Judge

Served via fax and email upon the following:

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DiCrocco, Brian

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DiCrocco, Brian

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Subject: 28-CA-161779 - LABOR PLUS 28-CA-161779 - LABOR PLUS ORDER ON PETITIONS TO REVOKE SUBPOENAS B-1-TWTEIJ, B-1-TWTFZB, and A-1-TWTO9N
Attachments: Order Pet Rvk SDT SAT served on the GC.pdf

Dear Counsel,

Please see the attached document.

Brian

Brian C. DiCrocco, Legal Tech.
NLRB Division of Judges San Francisco
628-221-8821