

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

INTERNATIONAL UNION OF
OPERATING ENGINEERS, LOCAL 501

and

Case No. 28-CA-182296

GNLV CORP. d/b/a
GOLDEN NUGGET LAS VEGAS

CHARGING PARTY GNLV CORP. D/B/A GOLDEN NUGGET
LAS VEGAS'S EXCEPTIONS TO THE ADMINISTRATIVE LAW
JUDGE'S DECISION AND RECOMMENDED ORDER

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Pursuant to Section 102.46 of the Board's Rules and Regulations, Counsel for Charging Party GNLV Corp. d/b/a Golden Nugget Las Vegas ("Golden Nugget"), by and through its counsel of record, the law firm of Kamer Zucker Abbott, files these Exceptions to the Administrative Law Judge's Decision and Recommended Order, issued by Administrative Law Judge Mara-Louise Anzalone ("Judge") on May 25, 2017. Golden Nugget takes exception to the following:

1. The Judge's finding that there was no first-hand explanation as to Golden Nugget's requests for grievance information and arbitration decisions. ALJD: 3.
2. The Judge's finding that witness and counsel for Golden Nugget Kaitlin H. Ziegler, Esq. ("Ziegler") admitted that counsel for Golden Nugget Gregory J. Kamer, Esq. ("Kamer") only once identified a concrete portion of the Union's similar language that was of concern for Golden Nugget. ALJD: 3.
3. The Judge's finding that the information requests were drafted by Ziegler, "at Kamer's direction." ALJD: 3.
4. The Judge's finding that Ziegler's reasons for requesting the information were "after-the-fact." ALJD: 3.
5. The Judge's finding that the record is devoid of evidence to support Golden Nugget's rationale for its information requests. ALJD: 3.
6. The Judge's reliance on a lack of evidence demonstrating "specific contractual terms agreed to between Local 501 and other employers," "specific Local 501 proposals to GNLV," or "the alleged 'similarity' between the two." ALJD: 3.
7. The Judge's reliance on lack of evidence regarding discussions had between the parties in between formal written correspondence. ALJD: 4-5.

8. The Judge's finding that Kamer's August 12 response framed the reason for the information requests "[i]n contrast to Ziegler's claim that GNLV's information request aimed to reduce grievance by individual employees dissatisfied with specific contractual terms." ALJD: 6.

9. The Judge's finding that evidence was insufficient to establish that Golden Nugget was entitled to the requested information. ALJD: 8.

10. The Judge's finding that Golden Nugget's information requests were "not reasonably specific, supported by objective evidence or explicated with the precision required by the Board's standards." ALJD: 8.

11. The Judge's reliance on witness Tom O'Mahar's ("O'Mahar") lack of position on "whether any of Local 501's 'similar' language had ever generated friction with other employers." ALJD: 8.

12. The Judge's finding that O'Mahar made no bargaining claims on which the requested information could have "cast any light." ALJD: 8.

13. The Judge's decision to disregard the General Counsel's rationales for the information requested that she "could not find fault with" because the Judge found the request required more than speculation. ALJD: 8.

14. The Judge's decision to disregard the liberal and broad discovery standard for information requests by requiring Golden Nugget to have stated a factual basis for its requests in its letter to Local 501 and requiring General Counsel to provide a basis "beyond its posited goal of avoiding industrial strife." ALJD: 8.

15. The Judge's finding that Golden Nugget was not "motivated by more than a vague suspicion about certain contractual language being the subject, or somehow related to, grievances and arbitrations within the local industry." ALJD: 9.

16. The Judge's finding that the record lacked objective facts supporting justification for Golden Nugget's information requests. ALJD: 9.

17. The Judge's finding that Golden Nugget needed to demonstrate knowledge that Local 501's proposed language was "especially grievance prone." ALJD: 9.

18. The Judge's finding that Golden Nugget lacked a "coherent explanation as to how reviewing the requested documents would actually assist the bargaining process." ALJD: 9, n.7.

19. The Judge's finding that General Counsel failed to demonstrate Golden Nugget has a "reasonable, objective basis for its requests." ALJD: 9.

20. The Judge's finding that even if the requests were based on more than speculation, their vagueness "excused Local 501's compliance." ALJD: 9.

21. The Judge's reliance on Golden Nugget's failure to delineate which proposals were previously identified by O'Mahar as having been agreed to by other employers and Kamer's failure to verbally clarify specific proposals of concern to validate Local 501's noncompliance. ALJD: 9.

22. The Judge's finding that "General Counsel offered no direct evidence of the claimed similarity between Local 501's proposals and any extra-unit contractual language...." ALJD: 9.

23. The Judge's decision to disregard Kamer's offer to review Local 501's files as a valid alternative means of acquiring information requested. ALJD: 9, n.8.

24. The Judge's finding that Kamer did not properly refine Golden Nugget's information requests. ALJD: 9, n.8.

25. The Judge's finding that Golden Nugget's failure to delineate individual proposals of concern converted the information request into interrogatories, resulting in Local 501 no longer being required to respond to the information request. ALJD: 9.

26. The Judge's finding that Kamer "struggled to identify" a standard for which proposals would be similar. ALJD: 9.

27. The Judge's finding that Local 501 would have to articulate its legal theory regarding similar language and which decisions it may rely on in future arbitrations. ALJD: 10.

28. The Judge's finding that grievances and arbitrations involving "similar, even if slightly nuanced" contract language as that proposed to Golden Nugget goes "beyond the permissible scope of an information request." ALJD: 10.

29. The Judge's decision to disregard Local 501's complete refusal to provide any documents relevant to Golden Nugget's information requests despite admittedly having documents that are readily available. See ALJD: *passim*.

30. The Judge's decision to disregard Local 501's lack of attempts to accommodate Golden Nugget's information requests. See ALJD: *passim*.

31. The Judge's Conclusion of Law that General Counsel did not meet its burden of showing probable relevance of Golden Nugget's information requests. ALJD: 10.

32. The Judge's Conclusion of Law that Golden Nugget failed to identify with particularity which grievances and/or arbitrations it sought. ALJD: 10.

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33. The Judge's decision and recommended order to dismiss the Complaint in its entirety. ALJD: 10.

DATED this 20th day of July, 2017.

Respectfully submitted,

KAMER ZUCKER ABBOTT

By: _____


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CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2017, I did serve a copy of the foregoing **CHARGING PARTY GNLV CORP. D/B/A GOLDEN NUGGET LAS VEGAS'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S DECISION AND RECOMMENDED ORDER** upon:

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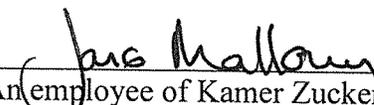
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