

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES – SAN FRANCISCO BRANCH**

OMNI HOTELS MANAGEMENT CORPORATION

and

**Cases 28-CA-194262
28-CA-198139**

AARON MICHAEL SCHNEIDER, an Individual

JOINT MOTION AND STIPULATION OF FACTS

This is a joint motion by the parties to this case, Omni Hotels Management Corporation (Respondent), Aaron Michael Schneider (Charging Party), and the General Counsel of the National Labor Relations Board (General Counsel), to transfer this case to the National Labor Relations Board (the Board) pursuant to Section 102.35(a)(9) of the Board's Rules and Regulations. The transfer of this case will effectuate the purposes of the National Labor Relations Act (Act) and avoid unnecessary costs and delay.

If this motion is granted, the parties agree to the following:

1. The record in this case consists of the Charge in Case 28-CA-194262, the First Amended Charge in Case 28-CA-194262, the Charge in Case 28-CA-198139, the Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in Cases 28-CA-194262, 28-CA-195834, and 28-CA-198139, the Answer to the Consolidated Complaint, the Stipulation of Facts, the Statement of the Issues Presented, each party's Statement of Position, Respondent's Recording Policy updated February 1, 2015, and Respondent's Recording Policy updated July 19, 2017.
2. This case is submitted directly to the Board for issuance of findings of act, conclusions of law, and an Order.
3. The parties waive a hearing, findings of fact, conclusions of law, and a recommended Order by an Administrative Law Judge.
4. The Board should set a time for the filing of briefs.
5. The following facts are undisputed:
 - (a) The charge in Case 28-CA-194262 was filed by the Charging Party on March 3, 2017, and a copy was served on Respondent by U.S. mail on March 6, 2017. A copy of the charge in Case 28-CA-194262 and the affidavit of service of the charge in Case 28-CA-194262 are attached hereto and are marked as Joint Exhibit 1(a) and 1(b), respectively.

(b) The first amended charge in Case 28-CA-194262 was filed by the Charging Party on March 29, 2017, and a copy was served on Respondent by U.S. mail on March 30, 2017. A copy of the first amended charge in Case 28-CA-194262 and the affidavit of service of the charge in Case 28-CA-194262 are attached hereto and are marked as Joint Exhibit 1(c) and 1(d), respectively.

(c) The charge in Case 28-CA-198139 was filed by the Charging Party on May 4, 2017, and a copy was served on Respondent by U.S. mail on May 5, 2017. A copy of the charge in Case 28-CA-198139 and the affidavit of service of the charge in Case 28-CA-198139 are attached hereto and are marked as Joint Exhibit 1(e) and 1(f), respectively.

(d) On June 30, 2017, the Regional Director for Region 28 (the Regional Director) issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in Cases 28-CA-194262, 28-CA-195834, and 28-CA-198139. A copy of the Complaint was served on Respondent by regular mail on the same date. A copy of the Complaint and the affidavit of service of the Complaint are attached hereto and are marked as Joint Exhibits 1(g) and 1(h), respectively.

(e) On July 10, 2017, Respondent timely filed an Answer to the Complaint, a copy of which is attached hereto and is marked as Joint Exhibit 1(i).

(f) On September 6, 2017, the Regional Director approved a Partial Informal Settlement Agreement (Agreement) resolving the allegations of paragraphs 5(d) through 5(m) and paragraph 6 of the Complaint, which were based on certain allegations of the charge in Case 28-CA-194262 and the allegations of the charge in Case 28-CA-195834. By the terms of the Agreement, paragraphs 5(d) through 5(m) and paragraph 6 of the Complaint were withdrawn upon approval of the Agreement.

(g) At all material times, Respondent has been a Delaware corporation with its principal office and place of business in Dallas, Texas, and with offices and places of business throughout the United States, including the Omni Scottsdale Resort & Spa at Montelucia in Paradise Valley, Arizona (Respondent's Omni Scottsdale facility), and has been operating hotels and providing food and lodging.

(h) During the 12-month period ending March 6, 2017, Respondent, in conducting its operations described above in paragraph 5(g), purchased and received at Respondent's Omni Scottsdale facility goods valued in excess of \$50,000 directly from points outside the State of Arizona.

(i) In conducting its operations during the 12-month period ending March 6, 2017, Respondent derived gross revenues in excess of \$500,000.

(j) 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.

(k) Since at least September 30, 2016, at all of its offices and places of business, Respondent has maintained the following Recording Policy:

Objective: In order to encourage open communication, free exchange of ideas, spontaneous and honest dialogue and an atmosphere of trust, Omni Hotels & Resorts has adopted the following policy concerning the audio and/or video recording of company meetings.

POLICY

- A. As a rule, the use of tape recorders or other recording devices (including a cell phone or any electronic device) to record any conversation at the workplace during working hours is prohibited.
- B. The purpose of the policy is to eliminate a chilling effect to the expression of views that may exist when one person is concerned that his or her conversation with another is being secretly recorded. This concern can inhibit spontaneous and honest dialogue especially when sensitive or confidential matters are being discussed.

PROCEDURE

- A. The use of a recording device to record workplace conversations is prohibited by company policy unless all parties being taped agree to being recorded, or unless the recording is done during breaks or other non-work time.
- B. All business conversations must have the express authorization of management prior to audio or video taping. Business conversations include calls made by or to Omni Reservations as well as calls made by Omni Hotel & Resorts Sales teams. Utilize form 711F for consent for business conversations.
- C. Violation of this policy may be grounds for immediate termination.
- D. Nothing stated in this policy is intended to limit, restrict, or affect any rights associates may have under the National Labor Relations Act ("NLRA") to communicate with other associates or the public about their wages, hours, or other terms and conditions of employment, to engage in protected, concerted activity, or any other rights associates may have under the NLRA.

(l) From at least September 30, 2016, until July 19, 2017, at all of its offices and places of business, Respondent labeled the Recording Policy described above in paragraph 5(k) “CONFIDENTIAL DOCUMENT.” A copy of the Recording Policy described above in paragraph 5(k) that Respondent labeled “CONFIDENTIAL DOCUMENT” is attached hereto and is marked as Joint Exhibit 2.

(m) On July 19, 2017, Respondent, at all of its offices and places of business, ceased labeling the Recording Policy described above in paragraph 5(k) “CONFIDENTIAL DOCUMENT” and made the version of the Recording Policy without such label available to all employees replacing the Recording Policy described above in paragraph 5(k) and 5(l) on its intranet site with the Recording Policy that Respondent ceased labeling “CONFIDENTIAL DOCUMENT.” Posting the Recording Policy on the intranet site is the normal manner in which Respondent communicates changes in policy to its employees. A copy of the Recording Policy described above in paragraph 5(k) that Respondent ceased labeling “CONFIDENTIAL DOCUMENT” is attached hereto and is marked as Joint Exhibit 3.

(n) Counsel for the General Counsel moves to amend paragraph 5(c) of the Complaint to allege:

5. (c) From at least September 30, 2016, until July 19, 2017, Respondent, at all of its offices and places of business labeled the Recording Policy described above in paragraph 5(a) “CONFIDENTIAL DOCUMENT.”

Respondent and the Charging Party do not object to Counsel for the General Counsel’s motion to amend paragraph 5(c) of the Complaint.

6. This stipulation is made without prejudice to any objection that any party may have as to the relevancy of any facts stated herein.

STATEMENT OF ISSUE PRESENTED

Based on the forgoing factual stipulations, the parties agree that the issue to be resolved in this matter is whether Respondent has interfered with, restrained, or coerced employees in the exercise of the rights guaranteed under Section 7 of the Act in violation of Section 8(a)(1) of the Act by maintaining the Recording Policy described above in paragraph 5(k) and by labeling the Recording Policy described above in paragraph 5(k) “CONFIDENTIAL DOCUMENT.”

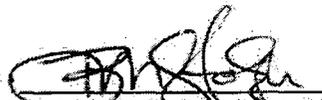
STATEMENTS OF POSITION

1. The General Counsel’s position, as will be expanded upon by brief, is that Respondent has interfered with, restrained, or coerced employees in the exercise of the rights guaranteed under Section 7 of the Act in violation of Section 8(a)(1) of the Act by maintaining the Recording Policy described above in paragraph 5(k) and by labeling the Recording Policy described above in paragraph 5(k) “CONFIDENTIAL DOCUMENT.”

2. Respondent’s position, as will be expanded upon by brief, is that Respondent has not interfered with, restrained, or coerced employees in the exercise of the rights guaranteed under Section 7 of the Act in violation of Section 8(a)(1) of the Act by maintaining the Recording Policy described above in paragraph 5(k) or by labeling the Recording Policy described above in paragraph 5(k) “CONFIDENTIAL DOCUMENT” and that, to the extent the CONFIDENTIAL DOCUMENT label violated the Act, that violation has been sufficiently cured such that no affirmative remedy is warranted.

Respectfully submitted,

Signed:  Date: 10-10-17
Judith E. Davila, Counsel for the General Counsel
Stefanie J. Parker, Counsel for the General Counsel
National Labor Relations Board, Region 28
2600 North Central Avenue, Suite 1400
Phoenix, Arizona 85004
Telephone: (602) 416-4760
Email: judith.davila@nrlb.gov

Signed:  Date: 10-9-2017
Brian M. Stolzenbach, Attorney at Law
Seyfarth Shaw, LLP
233 South Wacker Drive, Suite 8000
Chicago, IL 60606-6448
Telephone: (312) 460-5551
Email: bstolzenbach@seyfarth.com

Signed: _____ Date: _____
Aaron Schneider, Charging Party
15010 N. 59th Ave., Apr #217
Glendale, AZ 85306-3250
Telephone: (480) 414-9053
aschneider@execs.com

STATEMENTS OF POSITION

1. The General Counsel’s position, as will be expanded upon by brief, is that Respondent has interfered with, restrained, or coerced employees in the exercise of the rights guaranteed under Section 7 of the Act in violation of Section 8(a)(1) of the Act by maintaining the Recording Policy described above in paragraph 5(k) and by labeling the Recording Policy described above in paragraph 5(k) “CONFIDENTIAL DOCUMENT.”

2. Respondent’s position, as will be expanded upon by brief, is that Respondent has not interfered with, restrained, or coerced employees in the exercise of the rights guaranteed under Section 7 of the Act in violation of Section 8(a)(1) of the Act by maintaining the Recording Policy described above in paragraph 5(k) or by labeling the Recording Policy described above in paragraph 5(k) “CONFIDENTIAL DOCUMENT” and that, to the extent the CONFIDENTIAL DOCUMENT label violated the Act, that violation has been sufficiently cured such that no affirmative remedy is warranted.

Respectfully submitted,

Signed: J. Davila Date: 10-10-17
Judith E. Dávila, Counsel for the General Counsel
Stefanie J. Parker, Counsel for the General Counsel
National Labor Relations Board, Region 28
2600 North Central Avenue, Suite 1400
Phoenix, Arizona 85004
Telephone: (602) 416-4760
Email: judith.davila@nlrb.gov

Signed: _____ Date: _____
Brian M. Stolzenbach, Attorney at Law
Seyfarth Shaw, LLP
233 South Wacker Drive, Suite 8000
Chicago, IL 60606-6448
Telephone: (312) 460-5551
Email: bstolzenbach@seyfarth.com

Signed: Aaron Schneider Date: 10/09/17
Aaron Schneider, Charging Party
15010 N. 59th Ave., Apr #217
Glendale, AZ 85306-3250
Telephone: (480) 414-9053
aschneider@execs.com

Joint Exhibit 1(a)

INTERNET
FORM NLRB-501
(2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

| DO NOT WRITE IN THIS SPACE | |
|----------------------------|-----------------------------|
| Case 28-CA-194262 | Date Filed March 3, 2017 |

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

| | | |
|--|---|--------------------------------------|
| a. Name of Employer Omni Hotels | | b. Tel. No. (480) 627-3200 |
| | | c. Cell No. (207) 251-0598 |
| | | f. Fax No. (480) 627-3199 |
| d. Address (Street, city, state, and ZIP code) 4949 E Lincoln Dr AZ Paradise Valley 85253-4108 | | g. e-Mail kakelly@omnihotels.com |
| e. Employer Representative Kathleen Kelly HR Director | | h. Number of workers employed 200 |
| i. Type of Establishment (factory, mine, wholesaler, etc.) Hotels & Motels | j. Identify principal product or service Hotel | |

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 3 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
Aaron Michael Schneider Title:

| | | |
|---|--|------------------------------------|
| 4a. Address (Street and number, city, state, and ZIP code) 15010 N 59th Ave Apt 217 AZ Phoenix 85306-3250 | | 4b. Tel. No. (480) 414-9053 |
| | | 4c. Cell No. |
| | | 4d. Fax No. |
| | | 4e. e-Mail aschneider@execs.com |

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

| | | |
|--|---|--------------------------------|
| 6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. | | Tel. No. (480) 414-9053 |
| By Aaron Schneider (signature of representative or person making charge) | Aaron Michael Schneider Title: (Print/type name and title or office, if any) | Office, if any, Cell No. |
| 15010 N 59th Ave Apt 217 Address Phoenix AZ 85306-3250 | | Fax No. |
| 03/3/2017 18:20:01 (date) | | e-Mail aschneider@execs.com |

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes. Joint Exhibit 1(a) Page 1 of 2

Basis of the Charge

8(a)(3)

Within the previous six months, the Employer discharged an employee(s) because the employee(s) joined or supported a labor organization and in order to discourage union activities and/or membership.

| Name of employee discharged | Approximate date of discharge |
|-----------------------------|-------------------------------|
| Aaron Schneider | 02/22/17 |

8(a)(1)

Within the previous six-months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by promising better working conditions if employees did not join or support a union.

| Name of Employer's Agent/Representative who made the statement | Approximate date |
|--|------------------|
| Kathleen Kelly DR HR | 01/23/17 |
| Frank Ashmore GM | 01/23/17 |

15-0116 8-201107
3 GNS
8

Joint Exhibit 1(b)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

| | |
|---|---------------------------------|
| <p>OMNI HOTELS</p> <p style="text-align:center">Charged Party</p> <p style="text-align:center">and</p> <p>AARON MICHAEL SCHNEIDER</p> <p style="text-align:center">Charging Party</p> | <p>Case 28-CA-194262</p> |
|---|---------------------------------|

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on March 6, 2017, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Omni Hotels
4949 East Lincoln Drive
Paradise Valley, Arizona 85253-4108

March 6, 2017

Date

Nancy Martinez
Designated Agent of NLRB

Name

/s/Nancy Martinez

Signature

Joint Exhibit 1(c)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

FIRST AMENDED CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

| DO NOT WRITE IN THIS SPACE | |
|----------------------------|----------------|
| Case | Date Filed |
| 28-CA-194262 | March 29, 2017 |

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

| | | |
|---|--|---|
| a. Name of Employer Omni Hotels Management Corporation d/b/a Omni Scottsdale Resort & Spa at Montelucia | | b. Tel. No. (480)627-3200 |
| d. Address (street, city, state ZIP code) 4949 E Lincoln Drive Paradise Valley, AZ 85253-4108 | | c. Cell No. (207)251-0598 |
| e. Employer Representative Kathleen Kelly HR Director | | f. Fax No. (480)627-3199 |
| i. Type of Establishment (factory, nursing home, hotel) Hotel | | g. e-Mail kakelly@omnihotels.com |
| j. Principal Product or Service Food and Lodging | | h. Dispute Location (City and State) kakelly@omnihotels.com |
| | | k. Number of workers at dispute location 200 |

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

During the past six months, the above named Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by, among other acts: (1) soliciting grievances; (2) granting employees benefits to discourage them from supporting the union; (3) threatening its employees; and (4) maintaining overly broad and discriminatory rules.

During the past six months, the Employer discriminated against its employee Aaron Schneider by disciplining, suspending, and then discharging him in retaliation for and/or in order to discourage: (1) protected concerted activities and/or (2) union activity or membership.

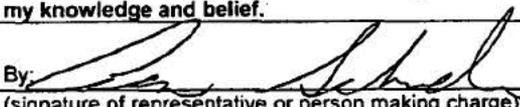
By the above and other acts, the Employer has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Aaron Michael Schneider

| | | |
|---|--|---|
| 4a. Address (street and number, city, state, and ZIP code) 15010 N 59th Ave, Apt 217, Glendale, AZ 85306-3250 | | 4b. Tel. No. n/a |
| | | 4c. Cell No. (480)414-9053 |
| | | 4d. Fax No. n/a |
| | | 4e. e-Mail aschneider@execs.com |

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

| | | |
|--|--|---|
| 6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. | | Tel. No. Same as 4b |
| By:  (signature of representative or person making charge) | | Office, if any, Cell No. Same as 4c |
| Print Name and Title Aaron Michael Schneider | | Fax No. Same as 4d |
| Address: 15010 N 59th Ave, Apt 217, Glendale, AZ 85306-3250 | | e-Mail Same as 4e |
| Date: 3/29/17 | | |

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Joint Exhibit 1(d)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**OMNI HOTELS MANAGEMENT
CORPORATION D/B/A OMNI SCOTTSDALE
RESORT & SPA AT MONTELUCCIA**

Charged Party

and

**AARON MICHAEL SCHNEIDER, an
Individual**

Charging Party

Case 28-CA-194262

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on March 30, 2017, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Omni Hotels Management Corporation d/b/a
Omni Scottsdale Resort & Spa at Montelucia
4949 East Lincoln Drive
Paradise Valley, AZ 85253-4108

March 30, 2017

Date

Kathleen M. Rourke-Osborne, Designated Agent of NLRB

Name

/s/ Kathleen M. Rourke-Osborne

Signature

Joint Exhibit 1(e)

UNITED STATES OF AMERICA
 NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

| DO NOT WRITE IN THIS SPACE | |
|----------------------------|-------------|
| Case | Date Filed |
| 28-CA-198139 | May 4, 2017 |

INSTRUCTIONS:

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

| | | |
|---|--|---|
| a. Name of Employer Omni Hotels Management Corporation | | b. Tel. No. (972) 871-5600 |
| | | c. Cell No. |
| d. Address (street, city, state ZIP code) 4001 Maple Avenue, Suite 500 Dallas, TX 75219 | e. Employer Representative Joy Rothschild, Chief Human Resources Officer | f. Fax No. (972) 871-5682 |
| | | g. e-Mail jrothschild@omnihotels.com |
| | | h. Dispute Location (City and State) Nationwide |
| i. Type of Establishment (factory, nursing home, hotel) Hotels | j. Principal Product or Service Food and Lodging | k. Number of workers at dispute location 23,000 |

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

During the past six months, the above named Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by, among other acts, maintaining overly broad and discriminatory rules.

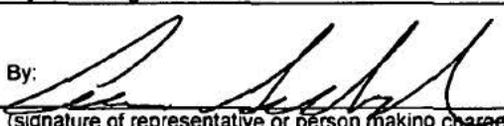
By the above and other acts, the Employer has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full name of party filing charge (if labor organization, give full name, including local name and number):

Aaron Michael Schneider, an Individual

| | |
|---|---|
| 4a. Address (street and number, city, state, and ZIP code) 15010 N 59th Ave, Apt 217, Glendale, AZ 85306-3250 | 4b. Tel. No. n/a |
| | 4c. Cell No. (480)414-9053 |
| | 4d. Fax No. n/a |
| | 4e. e-Mail aschneider@execs.com |

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

| | | |
|--|---|---|
| 6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. | | Tel. No. Same as 4b |
| By:  (signature of representative or person making charge) | Aaron Michael Schneider, an Individual Print Name and Title | Office, if any, Cell No. Same as 4c |
| Address: 15010 N 59th Ave, Apt 217, Glendale, AZ 85306-3250 | Date: 5/4/17 | Fax No. Same as 4d |
| | | e-Mail Same as 4e |

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Joint Exhibit 1(f)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**OMNI HOTELS MANAGEMENT
CORPORATION**

Charged Party

and

AARON MICHAEL SCHNEIDER

Charging Party

Case 28-CA-198139

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on May 4, 2017, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Omni Hotels Management Corporation
4001 Maple Ave Ste 500
Dallas, TX 75219-3241

5/4/2017

Date

Nancy Martinez
Designated Agent of NLRB

Name

/s/Nancy Martinez

Signature

Joint Exhibit 1(g)

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

OMNI HOTELS MANAGEMENT CORPORATION

and

**Cases 28-CA-194262
28-CA-198139**

AARON MICHAEL SCHNEIDER, an Individual

and

Case 28-CA-195834

JOSILYN ALBERT, an Individual

**ORDERED CONSOLIDATING CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, **IT IS ORDERED THAT** Case 28-CA-194262 filed by Aaron Michael Schneider, an Individual (Schneider) against Omni Hotels Management Corporation (Respondent), in which a Complaint and Notice of Hearing issued on May 24, 2017, is consolidated with Case 28-CA-195834, filed by Josilyn Albert, an Individual (Albert) against Respondent, and Case 28-CA-198139, filed by Schneider against Respondent.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1. (a) The charge in Case 28-CA-194262 was filed by Schneider on March 3, 2017; and a copy was served on Respondent by U.S. mail on March 6, 2017.

(b) The first amended charge in Case 28-CA-194262 was filed by Schneider on March 29, 2017, and a copy was served on Respondent by U.S. mail on March 30, 2017.

(c) The charge in Case 28-CA-195834 was filed by Albert on March 30, 2017, and a copy was served on Respondent by U.S. mail on the same date.

(d) The first amended charge in Case 28-CA-195834 was filed by Albert on April 13, 2017, and a copy was served on Respondent by U.S. mail on April 14, 2017.

(e) The charge in Case 28-CA-198139 was filed by Schneider on May 4, 2017, and a copy was served on Respondent by U.S. mail on May 5, 2017.

2. (a) At all material times, Respondent has been a Delaware corporation with its principal office and place of business in Dallas, Texas, and with offices and places of business throughout the United States, including the Omni Scottsdale Resort & Spa at Montelucia in Paradise Valley, Arizona (Respondent's Omni Scottsdale facility), and has been operating hotels and providing food and lodging.

(b) During the 12-month period ending March 6, 2017, Respondent in conducting its operations described above in paragraph 2(a), purchased and received at Respondent's Omni Scottsdale facility goods valued in excess of \$50,000 directly from points outside the State of Arizona.

(c) In conducting its operations during the 12-month period ending March 6, 2017, Respondent derived gross revenues in excess of \$500,000.

(d) 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, UNITEHERE Local 631 (the Union) has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

| | | |
|------------------|---|----------------------------|
| Frank Ashmore | - | General Manager |
| Kathleen Kelly | - | Human Resources Director |
| Daniel Piña | - | Rooms Division Manager |
| Paul Zamudio | - | Director of Guest Services |
| Isidro Barraza | - | Bell Captain |
| Antwoine Dixon | - | Sales & Marketing Director |
| Jimmy Stanton | - | Director of Sales |
| Michelle Simmons | - | Director of National Sales |

5. (a) Since at least September 30, 2016, at all of its offices and places of business, Respondent has maintained the following overly-broad and discriminatory Recording Policy:

Objective: In order to encourage open communication, free exchange of ideas, spontaneous and honest dialogue and an atmosphere of trust, Omni Hotels & Resorts has adopted the following policy concerning the audio and/or video recording of company meetings.

POLICY

- A. As a rule, the use of tape recorders or other recording devices (including a cell phone or any electronic device) to record any conversation at the workplace during working hours is prohibited.
- B. The purpose of the policy is to eliminate a chilling effect to the expression of views that may exist when one person is concerned that his or her conversation with another is being secretly recorded. This concern can inhibit spontaneous and honest dialogue especially when sensitive or confidential matters are being discussed.

PROCEDURE

- A. The use of a recording device to record workplace conversations is prohibited by company policy unless all parties being taped agree to being recorded, or unless the recording is done during breaks or other non-work time.
- B. All business conversations must have the express authorization of management prior to audio or video taping. Business conversations include calls made by or to Omni Reservations as well as calls made by Omni Hotel & Resorts Sales teams. Utilize form 711F for consent for business conversations.
- C. Violation of this policy may be grounds for immediate termination.
- D. Nothing stated in this policy is intended to limit, restrict, or affect any rights associates may have under the National Labor Relations Act (“NLRA”) to communicate with other associates or the public about their wages, hours, or other terms and conditions of employment, to engage in protected, concerted activity, or any other rights associates may have under the NLRA.

(b) Since about September 30, 2016, at all of its offices and places of business, by the terms of the Recording Policy described above in paragraph 5(a), Respondent has threatened its employees with immediate termination if they violate the Recording Policy described above in paragraph 5(a).

(c) Since about September 30, 2016, at all of its offices and places of business, Respondent has labeled rules and policies applicable to its employees, including the Recording Policy described above in paragraph 5(a), “CONFIDENTIAL DOCUMENT.”

(d) About January 23, 2017, Respondent, by Frank Ashmore (Ashmore), at Respondent’s Omni Scottsdale facility:

(i) by stating that it was disappointed that its employees felt they had to go to a Union, threatened its employees with unspecified reprisals for engaging in union and protected concerted activities; and

(ii) by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from engaging in union and protected concerted activities.

(e) About February 2, 2017, Respondent, at Respondent's Omni Scottsdale facility, granted its employees benefits by revising its standard group sales contract to encourage and support its sales team in negotiating a portage service charge from groups booking Respondent's facility for events, in order to discourage its employees from engaging in union and protected concerted activities.

(f) On various dates between around June 2016 and about April 10, 2017, Respondent's employee Albert engaged in concerted activities with other employees for the purposes of collective bargaining and other mutual aid and protection, and concertedly complained to Respondent regarding the wages, hours, and working conditions of Respondent's employees, by raising concerns with other employees about employees' wages, hours, and other terms and conditions of employment, including the negative results of an employee engagement survey, Respondent's treatment of its employees, and Respondent's failure to reimburse its employees for travel expenses, and concertedly raising such concerns with Respondent.

(g) About March 9, 2017, Respondent, by Antwoine Dixon, in a memorandum dated March 23, 2017, with the subject line, "Workplace Behavior Expectations Coaching Session," promulgated, and since then has maintained, the following overly-broad and discriminatory rules or directives:

(i) a rule or directive requiring its employees to communicate effectively and display a positive image;

(ii) a rule or directive prohibiting its employees from coming off negative and not advocating for the brand;

(iii) a rule or directive informing its employees it is not what they say, but how they say it;

(iv) a rule or directive requiring its employees to always be professional when asking questions or sharing their thoughts;

(v) a rule or directive requiring its employees to communicate concerns about issues not being resolved to Respondent; and

(vi) a rule requiring its employees to be a brand champion by bringing forward questions/concerns in a respectful and constructive manner in the appropriate forum.

(h) About March 9, 2017, Respondent issued the memorandum described above in paragraph 5(g) to its employee Albert.

(i) About March 22, 2017, Respondent suspended its employee Albert.

(j) About March 22, 2017, Respondent, by Kathleen Kelly, at Respondent's Omni Scottsdale facility, by telling its employees it was in their best interest not to talk to others about discipline and disciplinary investigations, threatened its employees with unspecified reprisals for engaging in protected concerted activities.

(k) About April 10, 2017, Respondent discharged its employee Albert.

(l) Respondent engaged in the conduct described above in paragraphs 5(h), 5(i), and 5(k) because its employee Albert violated the rules or directives

described above in paragraph 5(g), and to discourage employees from engaging in these or other concerted activities.

(m) Respondent engaged in the conduct described above in paragraphs 5(h), 5(i), and 5(k), because its employee Albert engaged in the conduct described above in paragraph 5(f), and to discourage employees from engaging in these or other concerted activities.

6. (a) About February 1, 2017, at Respondent's Omni Scottsdale facility, Respondent began enforcing a previously unenforced policy requiring its employees to clock out for breaks and meal periods.

(b) About February 1, 2017, Respondent verbally warned its employee Schneider.

(c) About February 20, 2017, Respondent suspended its employee Schneider.

(d) About February 22, 2017, Respondent discharged its employee Schneider.

(e) Respondent engaged in the conduct described above in paragraphs 6(a) through 6(d) because the named employee of Respondent assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

(f) Respondent engaged in the conduct described above in paragraphs 6(b) through 6(d) pursuant to the policy described above in paragraph 6(a).

7. By the conduct described above in paragraph 5, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

8. By the conduct described above in paragraph 6, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

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

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(a) through 5(c), the General Counsel seeks an Order requiring Respondent, at all of its facilities nationwide, to rescind the rules set forth above in paragraphs 5(a) through 5(c); furnish employees with inserts for any handbooks or manuals incorporating the rules set forth above in paragraphs 5(a) through 5(c) that advise that the unlawful rules have been rescinded, or publish and distribute to employees revised versions of any handbooks or manuals incorporating the rules set forth above in paragraphs 5(a) through 5(c) that do not contain the unlawful rules; provide a copy of the inserts or revised handbooks or manuals, together with written or electronic communications to employees showing that the unlawful rules have been rescinded and are no longer being maintained, to the Region within 21 days; physically post at all of Respondent's facilities nationwide a notice to employees addressing the conduct alleged in paragraphs 5(a) through 5(c), in English and any other languages deemed appropriate by the Regional Director; and electronically distribute a notice to employees addressing the conduct alleged in paragraphs 5(a) through 5(c) to all of its employees nationwide, such as by

email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means, in English and any other languages deemed appropriate by the Regional Director.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(d) and 5(e) and 6, the General Counsel seeks an Order requiring that Respondent physically post at Respondent's Omni Scottsdale facility, a Notice to Employees and an Explanation of Rights, in English, Spanish, and any other languages deemed appropriate by the Regional Director.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(d) and 5(e) and 6, the General Counsel seeks an Order requiring that Respondent electronically post, by email, posting on an intranet or an internet site, or other electronic means, at Respondent's Omni Scottsdale facility, the Notice to Employees and Explanation of Rights, in English, Spanish, and any other languages deemed appropriate by the Regional Director.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(d) and 5(e) and 6, the General Counsel also seeks an Order requiring that, at a meeting or meetings during work time, scheduled to ensure the widest possible attendance by employees at Respondent's Omni Scottsdale facility, Respondent's representative Ashmore read the Notice to Employees in English, Spanish, and any other languages deemed appropriate by the Regional Director in the presence of a Board agent and a representative of the Union, and then have a Board agent read the Explanation of Rights in English, Spanish, and any other languages deemed appropriate by the Regional Director in the presence of Respondent's supervisors and agents identified above in paragraph 4 and a representative of the Union. Alternatively, the

General Counsel seeks an Order requiring that, at a meeting or meetings during work time, scheduled to ensure the widest possible attendance by employees at Respondent's facility, Respondent promptly have a Board agent read the Notice to Employees and the Explanation of Rights in English, Spanish, and any other languages deemed appropriate by the Regional Director in the presence of Respondent's supervisors and agents identified above in paragraph 4 and a representative of the Union.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(d) and 5(e) and 6, the General Counsel also seeks an Order requiring that Respondent supply the Union, upon request, an alphabetized list of the full names and addresses of all employees currently employed by Respondent in the bell department at Respondent's facility, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(d) and 5(e) and 6, the General Counsel also seeks an Order requiring that Respondent, on request, grant the Union and its representatives reasonable access to post materials on Respondent's bulletin boards and in all places where notices to employees are customarily posted at Respondent's facility.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(k) through 5(m) and 6(d) through 6(f), the General Counsel seeks an order requiring that the named employees be made whole, including, but not limited to, by payment for consequential economic harm they incurred as a result of Respondent's unlawful conduct. The General

Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

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 consolidated complaint. The answer must be **received by this office on or before July 14, 2017, or postmarked on or before July 13, 2017.** 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 a 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 consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on August 8, 2017, at 9:00 a.m. (local time), at the Hearing Room, National Labor Relations Board, 2600 North Central Avenue, Suite 1400, Phoenix, Arizona, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Phoenix, Arizona this 30th day of June, 2017.

/s/ Cornele A. Overstreet

Cornele A. Overstreet, Regional Director

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Cases 28-CA-194262, et al.

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Omni Hotels Management Corporation
4949 East Lincoln Drive
Paradise Valley, AZ 85253-4108

Brian M. Stolzenbach, Attorney at Law
Seyfarth Shaw, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603-5577

Omni Hotels Management Corporation
4001 Maple Avenue, Suite 500
Dallas, TX 75219-3241

Monica Rodriguez, Attorney at Law
Seyfarth Shaw, LLP
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021

Aaron Michael Schneider
15010 North 59th Avenue, Apt. 217
Glendale, AZ 85306-3250

Josilyn Hayes Albert
6430 East Eugie Terrace
Scottsdale, AZ 85254

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

(OVER)

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

Joint Exhibit 1(h)

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

OMNI HOTELS MANAGEMENT CORPORATION

and

**Cases 28-CA-194262
28-CA-198139**

AARON MICHAEL SCHNEIDER, an Individual

and

Case 28-CA-195834

JOSILYN ALBERT, an Individual

**AFFIDAVIT OF SERVICE OF: ORDER CONSOLIDATING CASES, COMPLAINT
AND NOTICE OF HEARING (with Forms NLRB-4338 and NLRB-4668 attached)**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **June 30, 2017**, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

Omni Hotels Management Corporation
4949 East Lincoln Drive
Paradise Valley, AZ 85253-4108
Certified – 7010 2780 0001 0449 6722

Brian M. Stolzenbach, Attorney at Law
Seyfarth Shaw, LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603-5577

Omni Hotels Management Corporation
4001 Maple Avenue, Suite 500
Dallas, TX 75219-3241
Certified – 7010 2780 0001 0449 6739

Monica Rodriguez, Attorney at Law
Seyfarth Shaw, LLP
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021

Aaron Michael Schneider
15010 North 59th Avenue, Apt. 217
Glendale, AZ 85306-3250

Josilyn Hayes Albert
6430 East Eugie Terrace
Scottsdale, AZ 85254

June 30, 2017

Date

Dawn M. Moore,
Designated Agent of NLRB

Name

/s/ Dawn M. Moore

Signature

Joint Exhibit 1(i)

**IN THE UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28**

OMNI HOTELS MANAGEMENT
CORPORATION, d/b/a OMNI
SCOTTSDALE RESORT & SPA AT
MONTELUCCIA,

Respondent,

v.

AARON MICHAEL SCHNEIDER,

An Individual

And

JOSILYN ALBERT,

An Individual

Case Nos. 28-CA-194262
28-CA-195834
28-CA-198139

ANSWER TO CONSOLIDATED COMPLAINT

Respondent OMNI HOTELS MANAGEMENT CORPORATION answers the
Consolidated Complaint as follows:

COMPLAINT ¶1:

(a) The charge in Case 28-CA-194262 was filed by Schneider on March 3, 2017, and a copy was served on Respondent by U.S. mail on March 6, 2017.

(b) The first amended charge in Case 28-CA-194262 was filed by Schneider on March 29, 2017, and a copy was served on Respondent by U.S. mail on March 30, 2017.

(c) The charge in Case 28-CA-195834 was filed by Albert on March 30, 2017, and a copy was served on Respondent by U.S. mail on the same date.

(d) The first amended charge in Case 28-CA-19834 was filed by Albert on April 13, 2017, and a copy was served on Respondent by U.S. mail on April 14, 2017.

(e) The charge in Case in Case 28-CA-198139 was filed by Schneider on May 4, 2017, and a copy was served on Respondent by U.S. mail on May 5, 2017.

ANSWER:

(a) - (b) On information and belief, Respondent admits that the charge in Case 28-CA-194262 was filed on March 3, 2017 and mailed to Respondent at the Omni Scottsdale Resort & Spa at Montelucia on March 6, 2017. On information and belief, Respondent admits that the amended charge in Case 28-CA-194262 was filed on March 29, 2017 and mailed to Respondent at the Omni Scottsdale Resort & Spa at Montelucia on March 30, 2017.

(c) - (d) On information and belief, Respondent admits that the charge in Case 28-CA-195834 was filed on March 30, 2017 and mailed to Respondent at the Omni Scottsdale Resort & Spa at Montelucia that same day. On information and belief, Respondent admits that the amended charge in Case 28-CA-195834 was filed on April 13, 2017 and mailed to Respondent at the Omni Scottsdale Resort & Spa at Montelucia on April 14, 2017.

(e) On information and belief, Respondent admits that the charge in Case 28-CA-198139 was filed on May 4, 2017 and mailed to Respondent at the Omni Scottsdale Resort & Spa at Montelucia on May 5, 2017.

Respondent denies any remaining allegations in Complaint ¶ 1.

COMPLAINT ¶2:

(a) At all material times, Respondent has been a Delaware corporation with an office and place of business in Paradise Valley, Arizona (Respondent's facility), and has been operating a hotel and providing food and lodging.

(b) During the 12-month period ending March 6, 2017, Respondent in conducting its operations described above in paragraph 2(a), purchased and received at Respondent's facility goods valued in excess of \$50,000 directly from points outside the State of Arizona.

(c) In conducting its operations during the 12-month period ending March 6, 2017, Respondent derived gross revenues in excess of \$500,000.

(d) 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.

ANSWER:

Admitted.

COMPLAINT ¶3:

At all material times, UNITEHERE Local 631 (the Union) has been a labor organization within the meaning of Section 2(5) of the Act.

ANSWER:

Admitted.

COMPLAINT ¶4:

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

| | | |
|----------------------|---|----------------------------|
| Frank Ashmore | - | General Manager |
| Kathleen Kelly | - | Human Resources Director |
| Daniel Piña | - | Rooms Division Manager |
| Paul Zamudio | - | Director of Guest Services |
| Isidro Barraza | - | Bell Captain |
| Antwoine Dixon [sic] | - | Sales & Marketing Director |
| Jimmy Stanton | - | Director of Sales |
| Michelle Simmons | - | Director of National Sales |

ANSWER:

Respondent admits that, at times, the identified individuals have held the stated positions and have been agents and supervisors of Respondent. Without knowing which times the General Counsel deems “material,” Respondent is without knowledge or information sufficient to form a belief as to whether the individuals held those positions or were agents or supervisors of Respondent at “all material times.”

COMPLAINT ¶5:

(a) Since at least September 30, 2016, at all of its offices and places of business, Respondent has maintained the following overly-broad and discriminatory Recording Policy:

Objective: In order to encourage open communication, free exchange of ideas, spontaneous and honest dialogue and an atmosphere of trust, Omni Hotels &

Resorts has adopted the following policy concerning the audio and/or video recording of company meetings.

POLICY

- A. As a rule, the use of tape recorders or other recording devices (including a cell phone or any electronic device) to record any conversation at the workplace during working hours is prohibited.
- B. The purpose of the policy is to eliminate a chilling effect to the expression of views that may exist when one person is concerned that his or her conversation with another is being secretly recorded. This concern can inhibit spontaneous and honest dialogue especially when sensitive or confidential matters are being discussed.

PROCEDURE

- A. The use of a recording device to record workplace conversations is prohibited by company policy unless all parties being taped agree to being recorded, or unless the recording is done during breaks or other non-work time.
- B. All business conversations must have the express authorization of management prior to audio or video taping. Business conversations include calls made by or to Omni Reservations as well as calls made by Omni Hotel & Resorts Sales teams. Utilize form 711F for consent for business conversations.
- C. Violation of this policy may be grounds for immediate termination.
- D. Nothing stated in this policy is intended to limit, restrict, or affect any rights associates may have under the National Labor Relations Act (“NLRA”) to communicate with other associates or the public about their wages, hours, or other terms and conditions of employment, to engage in protected, concerted activity, or any other rights associates may have under the NLRA.

(b) Since about September 30, 2016, at all of its offices and places of business, by the terms of the Recording Policy described above in paragraph 5(a), Respondent has threatened its employees with immediate termination if they violate the Recording Policy described above in paragraph 5(a).

(c) Since about September 30, 2016, at all of its offices and places of business, Respondent has labeled rules and policies applicable to its employees, including the Recording Policy described above in paragraph 5(a), “CONFIDENTIAL DOCUMENT.”

(d) About January 23, 2017, Respondent, by Frank Ashmore (Ashmore), at Respondent’s Omni Scottsdale facility:

(i) by stating that it was disappointed that its employees felt they had to go to a Union, threatened its employees with unspecified reprisals for engaging in union and protected concerted activities; and

(ii) by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from engaging in union and protected concerted activities.

(e) About February 2, 2017, Respondent, at Respondent's Omni Scottsdale facility, granted its employees benefits by revising its standard group sales contract to encourage and support its sales team in negotiating a portage service charge from groups booking Respondent's facility for events, in order to discourage its employees from engaging in union and protected concerted activities.

(f) On various dates between around June 2016 and about April 10, 2017, Respondent's employee Albert engaged in concerted activities with other employees for the purposes of collective bargaining and other mutual aid and protection, and concertedly complained to Respondent regarding the wages, hours, and working conditions of Respondent's employees, by raising concerns with other employees about employees' wages, hours, and other terms and conditions of employment, including the negative results of an employee engagement survey, Respondent's treatment of its employees, and Respondent's failure to reimburse its employees for travel expenses, and concertedly raising such concerns with Respondent.

(g) About March 9, 2017, Respondent, by Antwoine [*sic*] Dixon, in a memorandum dated March 23, 2017, with the subject line, "Workplace Behavior Expectations Coaching Session," promulgated, and since then has maintained, the following overly-broad and discriminatory rules or directives:

(i) a rule or directive requiring its employees to communicate effectively and display a positive image;

(ii) a rule or directive prohibiting its employees from coming off negative and not advocating for the brand;

(iii) a rule or directive informing its employees it is not what they say, but how they say it;

(iv) a rule or directive requiring its employees to always be professional when asking questions or sharing their thoughts;

(v) a rule or directive requiring its employees to communicate concerns about issues not being resolved to Respondent; and

(vi) a rule requiring its employees to be a brand champion by bringing forward questions/concerns in a respectful and constructive manner in the appropriate forum.

(h) About March 9, 2017, Respondent issued the memorandum described above in paragraph 5(g) to its employee Albert.

(i) About March 22, 2017, Respondent suspended its employee Albert.

(j) About March 22, 2017, Respondent, by Kathleen Kelly, at Respondent's Omni Scottsdale facility, by telling its employees it was in their best interest not to talk to others about discipline and disciplinary investigations, threatened its employees with unspecified reprisals for engaging in protected concerted activities.

(k) About April 10, 2017, Respondent discharged its employee Albert.

(l) Respondent engaged in the conduct described above in paragraphs 5(h), 5(i), and 5(k) because its employee Albert violated the rules or directives described above in paragraph 5(g), and to discourage employees from engaging in these or other concerted activities.

(m) Respondent engaged in the conduct described above in paragraphs 5(h), 5(i), and 5(k), because its employee Albert engaged in the conduct described above in paragraph 5(f), and to discourage employees from engaging in these or other concerted activities.

ANSWER:

Respondent admits that it has labeled its Recording Policy as a "**CONFIDENTIAL DOCUMENT.**" Respondent admits that in March 2017, it issued a coaching memorandum to Albert. Respondent admits that on March 22, 2017, it suspended Albert pending investigation, and terminated her employment on April 10, 2017. Respondent denies the remainder of Complaint ¶ 5.

COMPLAINT ¶6:

(a) About February 1, 2017, at Respondent's Omni Scottsdale facility, Respondent began enforcing a previously unenforced policy requiring its employees to clock out for breaks and meal periods.

(b) About February 1, 2017, Respondent verbally warned its employee Schneider.

(c) About February 20, 2017, Respondent suspended its employee Schneider.

(d) About February 22, 2017, Respondent discharged its employee Schneider.

(e) Respondent engaged in the conduct described above in paragraphs 6(a) through 6(d) because the named employee of Respondent assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

(f) Respondent engaged in the conduct described above in paragraphs 6(b) through 6(d) pursuant to the policy described above in paragraph 6(a).

ANSWER:

Respondent admits that it verbally warned Schneider on February 1, 2017, suspended him pending further investigation on February 20, 2017, and terminated his employment on February 22, 2017. Respondent admits that all these activities stemmed from Schneider's refusal to follow Respondent's longstanding policy requiring him to clock out for meal periods.

Respondent denies the remaining allegations in Complaint ¶ 6.

COMPLAINT ¶7:

By the conduct described above in paragraph 5, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

ANSWER:

Denied.

COMPLAINT ¶8:

By the conduct described above in paragraph 6, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

ANSWER:

Denied.

COMPLAINT ¶9:

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

ANSWER:

Denied.

REQUESTED REMEDY

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(a) through 5(c), the General Counsel seeks an Order requiring Respondent, at all of its facilities nationwide, to rescind the rules set forth above in paragraphs 5(a) through 5(c); furnish employees with inserts for any handbooks or manuals incorporating the rules set forth above in

paragraphs 5(a) through 5(c) that advise that the unlawful rules have been rescinded, or publish and distribute to employees revised versions of any handbooks or manuals incorporating the rules set forth above in paragraphs 5(a) through 5(c) that do not contain the unlawful rules; provide a copy of the inserts or revised handbooks or manuals, together with written or electronic communications to employees showing that the unlawful rules have been rescinded and are no longer being maintained, to the Region within 21 days; physically post at all of Respondent's facilities nationwide a notice to employees addressing the conduct alleged in paragraphs 5(a) through 5(c), in English and any other languages deemed appropriate by the Regional Director; and electronically distribute a notice to employees addressing the conduct alleged in paragraphs 5(a) through 5(c) to all of its employees nationwide, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means, in English and any other languages deemed appropriate by the Regional Director.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(d) and 5(e) and 6, the General Counsel seeks an Order requiring that Respondent physically post at Respondent's Omni Scottsdale facility, a Notice to Employees and an Explanation of Rights, in English, Spanish, and any other languages deemed appropriate by the Regional Director.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(d) and 5(e) and 6, the General Counsel seeks an Order requiring that Respondent electronically post, by email, posting on an intranet or an internet site, or other electronic means, at Respondent's Omni Scottsdale facility, the Notice to Employees and Explanation of Rights, in English, Spanish, and any other languages deemed appropriate by the Regional Director.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(d) and 5(e) and 6, the General Counsel also seeks an Order requiring that, at a meeting or meetings during work time, scheduled to ensure the widest possible attendance by employees at Respondent's Omni Scottsdale facility, Respondent's representative Ashmore read the Notice to Employees in English, Spanish, and any other languages deemed appropriate by the Regional Director in the presence of a Board agent and a representative of the Union, and then have a Board agent read the Explanation of Rights in English, Spanish, and any other languages deemed appropriate by the Regional Director in the presence of Respondent's supervisors and agents identified above in paragraph 4 and a representative of the Union. Alternatively, the General Counsel seeks an Order requiring that, at a meeting or meetings during work time, scheduled to ensure the widest possible attendance by employees at Respondent's facility, Respondent promptly have a Board agent read the Notice to Employees and the Explanation of Rights in English, Spanish, and any other languages deemed appropriate by the Regional Director in the presence of Respondent's supervisors and agents identified above in paragraph 4 and a representative of the Union.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(d) and 5(e) and 6, the General Counsel also seeks an Order requiring that Respondent supply the Union, upon request, an alphabetized list of the full names and addresses of all employees currently employed by Respondent in the bell department at Respondent's facility, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(d) and 5(e) and 6, the General Counsel also seeks an Order requiring that Respondent, on request, grant the Union and its representatives reasonable access to post materials on Respondent's bulletin boards and in all places where notices to employees are customarily posted at Respondent's facility.

As part of the remedy for the unfair labor practices alleged above in paragraphs 5(k) through 5(m) and 6(d) through 6(f), the General Counsel seeks an order requiring that the named employees be made whole, including, but not limited to, by payment for consequential economic harm they incurred as a result of Respondent's unlawful conduct. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER:

Respondent denies that it committed unfair labor practices and therefore denies that the General Counsel is entitled to any remedial order whatsoever.

Respondent further states that Section 10(c) of the Act prohibits any remedial order including reinstatement or monetary relief for Schneider and Albert because they were discharged for cause. In the alternative, Schneider and Albert are not entitled to any monetary relief to the extent they have mitigated their damages and/or failed to take reasonable steps to mitigate their damages.

Respondent also states that there is no legal basis for requesting special remedies in this case, such as the posting of a Notice to Employees and Explanation of Rights, any manner of Notice-reading, the supplying of personal information to the Union, or Union access to Respondent's bulletin boards or other aspects of its property.

Requiring Respondent to read any Notice to Employees would violate Respondent's right to free speech.

Requiring Respondent to allow the National Labor Relations Board and/or the Union access to its property would violate Respondent's property rights.

Requiring Respondent to allow recording on its properties would require Respondent to allow employees to violate various state laws, including criminal statutes, and would violate Respondent's property rights and its and its employees' fundamental right to privacy.

Any allegations contained in the Consolidated Complaint that are not set forth in an underlying unfair labor practice charge are barred by Section 10(b) of the Act.

FOR ALL THESE REASONS and any additional reasons set forth in conjunction with the hearing of this matter, Respondent OMNI HOTELS MANAGEMENT CORPORATION respectfully requests that the Consolidated Complaint be dismissed in its entirety.

DATED: July 10, 2017

Respectfully submitted,

OMNI HOTELS MANAGEMENT
CORPORATION

By: /s/Monica Rodriguez

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CERTIFICATE OF SERVICE

I do hereby certify that I have caused a true and correct copy of the foregoing answer to be served on the Regional Director, Region 28, via electronic filing, and the Charging Parties listed below, via U.S. Mail, on this 10th day of July, 2017:

Cornele A. Overstreet
Regional Director
National Labor Relations Board
Region 28
2600 North Central Avenue
Suite 1400
Phoenix, AZ 85004
Via Electronic Filing

Aaron Michael Schneider
15010 North 59th Avenue
Apt. 217
Glendale, AZ 85306
Via U.S. Mail

Josylin Hayes Albert
6430 E. Eugie Terrace,
Scottsdale, AZ 85254
Via U.S. Mail

/s/ Monica Rodriguez

Joint Exhibit 2

| DEPARTMENT | STANDARD | NUMBER |
|--------------------|------------------|--------|
| Associate Services | Recording Policy | 711 |

Objective: In order to encourage open communication, free exchange of ideas, spontaneous and honest dialogue and an atmosphere of trust, Omni Hotels & Resorts has adopted the following policy concerning the audio and/or video recording of company meetings.

POLICY

- A. As a rule, the use of tape recorders or other recording devices (including a cell phone or any electronic device) to record any conversation at the workplace during working hours is prohibited.
- B. The purpose of the policy is to eliminate a chilling effect to the expression of views that may exist when one person is concerned that his or her conversation with another is being secretly recorded. This concern can inhibit spontaneous and honest dialogue especially when sensitive or confidential matters are being discussed.

PROCEDURE

- A. The use of a recording device to record workplace conversations is prohibited by company policy unless all parties being taped agree to being recorded, or unless the recording is done during breaks or other non-work time.
- B. All business conversations must have the express authorization of management prior to audio or video taping. Business conversations include calls made by or to Omni Reservations as well as calls made by Omni Hotel & Resorts Sales teams. Utilize form 711F for consent for business conversations.
- C. Violation of this policy may be grounds for immediate termination.
- D. Nothing stated in this policy is intended to limit, restrict, or affect any rights associates may have under the National Labor Relations Act ("NLRA") to communicate with other associates or the public about their wages, hours, or other terms and conditions of employment, to engage in protected, concerted activity, or any other rights associates may have under the NLRA.

Joint Exhibit 3

| DEPARTMENT | STANDARD | NUMBER |
|--------------------|------------------|--------|
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