

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

**IGT d/b/a INTERNATIONAL GAME TECHNOLOGY**

**and**

**Case 28-CA-192062  
28-CA-193733**

**INTERNATIONAL UNION OF OPERATING  
ENGINEERS LOCAL UNION 501, AFL-CIO**

**ORDER GRANTING REQUEST TO REOPEN RECORD  
FOR RECEIPT OF SUBPOENAED DOCUMENTS**

Commencing on October 17, 2017, a three-day hearing was held in this proceeding. On the final day, Counsel for the General Counsel stated that she had not received certain documents responsive to Items 20 and 25 of Board subpoena duces tecum B-1-YBZSYJ (see GC Exh. 21(a)). To avoid unnecessary delay in the proceeding, I granted Counsel for General Counsel's unopposed request to adjourn the hearing for a period of time sufficient for Respondent to provide the documents. Specifically, I ordered that Respondent produce documents responsive to Items 20 and 25 by November 2, 2017 (as temporally narrowed by my ruling on Respondent's petition to revoke), and granted Counsel for the General Counsel until November 9, 2017, to enter such documents into the record.

Documents submitted by Counsel for the General Counsel indicate that, on November 8 and 9, 2017, she engaged in email exchanges with San Francisco Division of Judges Legal Technician Vanise Lee regarding the format in which to submit the documents. On November 9, the due date for receipt of the documents, Counsel for the General Counsel—via email—informed Ms. Lee that Respondent's counsel had raised, as she put it, "another issue...that I think Judge Anzalone may need to rule on." She concluded by informing Ms. Lee that she "would like to inquire with Judge Anzalone how to address this issue..." and "would respectfully request that the filing deadline...be extended a week." (See attachments to Counsel for the General Counsel's November 15, 2017 filing).

As of close of business on November 9, however, Counsel for the General Counsel had not filed any request for postponement or any other relief foreshadowed in her emails to Ms. Lee, nor had she filed the documents as ordered. On November 14, I ordered the record closed. The following day, Counsel for the General Counsel requested to reopen the record for receipt of the subpoenaed documents, arguing that her emails to Ms. Lee complied with Section 102.24 of Board's Rules and Regulations, which requires that motions during the pendency of a hearing be "made in writing to the administrative law judge." Respondent did not oppose the request to reopen but argued that its counsel should be permitted an opportunity to review the documents in question to ensure that they comport with the category of documents I previously ruled would be admitted following the adjournment of hearing.

In this matter, Counsel for the General Counsel's informal manner of communicating her requests (via email to a support staff employee) did not comport with the standard expected of government attorneys familiar with Board practice. In this regard, once the record has opened before an administrative law judge, Section 102.24 requires that a party requesting relief submit a written motion to the judge or make an oral motion transcribed on the record. Such motions are made a part of the record under Section 102.26, and rulings on them are therefore subject to interim appeal. Requiring an official record of all discussions involving potentially disputed matters is thus not a mere formality; the rules protect the parties by affording them an opportunity to state their positions unambiguously and further allow for a full and fair review of an administrative law judge's decision on any given motion. These procedural safeguards are certainly appropriate where—as here—a party purports to raise objections on behalf of its adversary as justification for extending its own filing deadline. That said, considering that Respondent does not oppose Counsel for the General Counsel's motion, I will grant her motion to reopen the record to submit the subpoenaed documents, as described below.

Accordingly, it is ORDERED that Counsel for the General Counsel will be permitted until the close of business on November 24, 2017 to submit the documents in question. I will further permit Respondent until close of business on November 29, 2017 to file a motion to strike any documents it believes are not in conformity with the my order on the record. I will then issue an order closing the record and setting a due date for post-hearing briefs.

Dated: November 21, 2017, San Francisco, California.



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Mara-Louise Anzalone  
Administrative Law Judge

***Served by email upon the following:***

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