



## Law Enforcement Officers Security Unions LEOSU

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### STATEMENT OF OBJECTIONS TO CONDUCT OF THE ELECTION AND CONDUCT AFFECTING RESULTS OF THE ELECTION

In accordance with 11392.1 of the National Labor Relations Case handling manual the MGM Springfield Law Enforcement Officers Union, LEOSU, LEOS-PBA is hereby filing objections to the election held on November 27th 2018 in MGM Springfield, 01-RC-230330.

**Objection # 1.** During and both prior to the critical period MGM Springfield employees were forced and ordered to attend mandatory coercive interrogation meetings in an isolated office area, whereby MGM Springfield representatives as well as MGM Springfield third party Union-Busting consultants were interrogating and confronting MGM Springfield Casino security officers including and not limited to their union activity, as well as if they were for or against unionization or shown sympathy towards the union. These interrogation meetings were coercive and mandatory at times. At times these interrogation meetings consisted of one-on-one and one-on-two meetings, two-on-one meetings and Two-on-Two meetings as described by said employees.

During these mandatory coercive interrogation meetings MGM Springfield employees were unknowingly polled as one witness observed the Union-Busting consultant saw a sheet of paper with said employees names on it with a checkmark on whether they pro-union, against the union and/or in the middle.

Employer interrogation of an Employee as to Union affiliation or activity is prohibited if “coercive.” Whether interrogation is coercive depends on the totality of the circumstances. Shamrock Foods Co., 337 NLRB 915, enforcement granted, 346 F.2d 1130 (DC Cir. 2003); V&S ProGalv, Inc. v. NLRB, 168 F.3d 270 (6th Cir. 1999), enforcing 323 NLRB 801 (1997).

When an Employer does poll its employees, it must employ the following safeguards: (i) the Employees are informed of the purpose of the poll; (ii) the Employees are polled by secret ballot; and (iii) the Employer has not committed other unfair labor practices or created a coercive atmosphere; and (iv) assurances against reprisal are given.<sup>106</sup>

**Objection # 2** During the critical period MGM Springfield held a “Security Roundtable” meeting whereby they provided food and solicited grievances from said employees. This mandatory “Security Roundtable” meeting required said employees to attend on their off-time and were paid additional money for their attendance.

**Objection # 3** During the critical period MGM Springfield held briefings whereby MGM Springfield representatives solicited grievances.

**Objection # 4** During the critical period MGM Springfield Kevin Frazier & Robert Williams who were both identified by the Union to MGM Springfield management as lead organizers / Union supports were retaliated against for their support of the Union. Including and not limited to being humiliated, lied about and targeted by MGM Springfield representatives based on their union activity. During the critical period both Frazier & Williams were used as an example to deter other MGM Springfield casino officers from associating with and/or sending a strong message of retaliation if said employees supported the union by removing both Frazier & Williams from working the main casino and assigning them both to the Mass Mutual Center.

Both Frazier & Williams were given posts at the Mass Mutual Center that were isolated outside of the casino whereby they had little or no access to their fellow MGM Springfield casino officers. Williams notes he was never trained for this post. A Unfair Labor charge has been filed with the Board against MGM Springfield based on this retaliation on behalf of Williams.

During this time Kevin Frazier was being targeted by upper MGM Springfield casino management representatives in their attempt to terminate his employment which is outlined in a Unfair Labor Board charged filed with the Board based on his union activity as well as other related activities.

**Objection 5.** During the critical period the Employer was and/or made it appear that by voting NO for union representation certain MGM Springfield employees had an opportunity to be promoted to supervisor.

In a letter by MGM President Michael Mathis which was published on MASS LIVE on November 26<sup>th</sup> titled: 'Let's tell this union to go away:' MGM Springfield President Michael Mathis urges security guards to reject union vote, the reporter doing the story Dan Glaun refers to: Mathis acknowledging that MGM Springfield "did not always hear the voice" of its security officers, saying management would listen to concerns and touting promotion opportunities within the company. This would support this objection as well as objections number 2 & 3 whereby MGM Springfield solicited grievances from MGM Springfield employees.

**Objection 6.** During the critical period MGM Springfield representatives made it appear that any attempt unionize would be futile and would result in a loss of wages and/or benefits.

**Objection 7.** During the critical period the employer engaged in surveillance and/or made it appear it engaged in surveillance. During the course of the campaign MGM Springfield representatives would suddenly appear in when two or more employees were talking with each other. They would appear when they were on their breaks and lunch hour making it appear they were under surveillance.

On Saturday November 17, 2018 during a walk through of the casino by LEOSU representatives and two MGM Springfield Casino employees Kevin Frazier & Robert Williams, Williams was approached by a supervisor who alerted him that MGM Springfield Casino management was watching him walk through the casino with LEOSU representatives through their surveillance system . Moments later several MGM Springfield Casino managers along with several security officers approached LEOSU representatives and Frazier & Williams, questioning us all on why we were walking through the casino. Both Frazier & Williams appeared to be shaken and immediately left the area. MGM Springfield Casino management questioned us about why we were in the casino, which we responded we were there for lunch. At know time were we told to leave, but we were questioned for a period of time and followed by MGM Springfield management as well as several security officers for about twenty minutes. During this time other MGM Springfield Casino officers witnessed this event and were fully aware of what took place. At no time did LEOSU attempt to make any contact with any MGM Springfield Casino security officers when we were walking through the casino.

The Employer may not conduct surveillance of Employees engaging in Union activities regardless of whether (i) the Employees know of the surveillance or (ii) the surveillance is conducted by supervisors either encouraged by the Employer or acting on their own. The Employer is also prohibited from creating the impression among Employees that it is engaged in surveillance. Surveillance includes unjustified recording, photographing, or videotaping of protected activity.

**Objection 8.** During the critical period the International Union, Security, Police & Fire Professionals of America (SPFPA) who originally intervened in this election, withdrew from this election immediately after receiving a Board approved excelsior list, sent out by way of text messaging a UNION-BUSTING YouTube video denouncing LEOSU and encouraging MGM Springfield casino officers to VOTE NO in the election which was held on November 27<sup>th</sup>. SPFPA sent this UNION-BUSTING video on November 26<sup>th</sup> thirteen (13) hours prior to the start of the Board election. Due to the critical timing of said UNION-BUSTING text video, the LEOSU had little time to respond to this SPFPA UNION-BUSTING video. This UNION-BUSTING attack by the SPFPA, constitutes third party interference in their attempt to assist MGM Springfield in achieving a favorable decision which was clear by the results of the tally of ballots.

**The LEOSU has filed an Unfair Labor charge in this case citing:**

On November 26, 2018 David L. Hickey, President & Organizing Director of SPFPA and its agents / representatives, using a Board approved eligibility list it received when they intervened in & thereafter withdrew from Case No. 01-RC 230330, texted messaged MGM Springfield Casino security professionals less than 12 hours prior to a scheduled NLRB vote a ANTI-UNION BUSTING - ANTI-LEOSU YouTube video urging these bargaining unit members to VOTE NO on Tuesday November 27<sup>th</sup>.

The purpose of this SPFPA ANTI-UNION BUSTING - ANTI-LEOSU YouTube video was to openly assist MGM Springfield in winning this election in Case No. 01-RC 230330 as well as to interfere with and restrain the pending vote scheduled for Tuesday November 27, 2018 between MGM Springfield & LEOSU and its affiliate union MGM Springfield Casino Law Enforcement Officers Union. Mr. Hickey's and SPFPA representative Dwayne Phillips as well as other

SPFPA representatives has misused the MGM Springfield voter eligibility list after SPFPA withdrew from this election lacking support and fearing another loss to LEOSU, as well as for the purposes of assisting MGM Springfield in this election and at the same time for the purposes of retaliating against the LEOSU and its affiliated unions and its members & potential members, has violated Board Rule No. 102.62(d).

By the foregoing and other acts, the SPFPA and its agents David L. Hickey & Dwayne Phillips, and other SPFPA agents/ representatives, have restrained and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

By the foregoing and other acts which may be revealed in the NLRB Unfair Labor federal investigation filed by the LEOSU including and limited to the above based on both MGM Springfield's conduct and SPFPA UNION-BUSTING interference conduct, the LEOSU is filing objections to this election noting that the laboratory conditions necessary for a fair election was tainted. That based on the conduct by both MGM Springfield & SPFPA's third party interference, outlined in both these objections as well as the pending Unfair Labor practices filed with Board the MGM Springfield Casino officers Section 7 rights were violated and a new election is warranted after the conclusion of the Boards federal investigation.

Conduct that creates an atmosphere which renders improbable a free choice will sometimes warrant invalidating an election, even though that conduct may not constitute an unfair labor practice.... [T]he criteria applied...in a representation proceeding...need [not] be identical to those employed in testing whether an unfair labor practice was committed.... In election proceedings, it is the Board's function to provide a laboratory in which an experiment may be conducted, under conditions as nearly ideal as possible, to determine the uninhibited desires of the employees. 137 NLRB 1782, 50 LRRM 1489 (1962).

*Steve Maritas*

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Steve Maritas

Organizing Director of the MGM Springfield Casino Law Enforcement Officers Security Union, a division of the Law Enforcement Officers Security Unions, LEOSU, LEOS-PBA

12/3/18

## CERTIFICATE OF SERVICE

I Steve Maritas Organizing Director of the MGM Springfield Casino Law Enforcement Officers Security Union, a division of the Law Enforcement Officers Security Unions, LEOSU, LEOS-PBA has served a copy of these objections on the Employer this day December 3, 2018 by email as well as the NLRB by e-filing.

*Steve Maritas*

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Steve Maritas

LEOSU Organizing Director

12/3/18