

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

**CASINO ONE CORPORATION d/b/a
LUMIÈRE PLACE CASINO & HOTELS**

and

**Cases 14-CA-066026
14-CA-071525**

UNITE HERE, LOCAL 74

DECISION AND ORDER

Statement of the Cases

On May 31, 2012, Casino One Corporation d/b/a Lumière Place Casino & Hotels (the Respondent), UNITE HERE, Local 74 (the Union), and the Acting General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act, as amended, and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following:

Findings of Fact

1. The Employer's business

The Respondent is a Mississippi corporation with an office and place of business located at 999 N. 2nd Street, St. Louis, Missouri (the St. Louis facility). The Respondent operates a casino, hotel, and restaurants at the St. Louis facility.

During the 12-month period ending December 31, 2011, the Respondent, in conducting its business operations at the St. Louis facility, derived gross revenues in

excess of \$500,000, and purchased and received at the St. Louis facility goods and materials valued in excess of \$50,000 directly from points outside the State of Missouri.

The Respondent is now, and has been at all material times, an employer engaged in commerce within the meaning of Sections 2(2), (6), and (7) of the Act.

2. The labor organization involved

UNITE HERE, Local 74 is a labor organization within the meaning of Section 2(5) of the Act.

3. The appropriate unit

The following employees of the Respondent, the Unit, constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All regular full-time and regular part-time food and beverage, casino cashiering (change persons/slot attendants, booth cashiers, carousel attendants, hard and soft count), cleaning, groundskeeping, shipping and receiving, parking and transportation employees, and slot technicians employed by Respondent at its 999 N. 2nd Street, St. Louis, Missouri facility, EXCLUDING all other employees and all managers, guards, and supervisors as defined in the Act.

Between about April 2008 and November 2008, a majority of the Unit designated and selected the Union as their representative for purposes of collective bargaining with the Respondent.

On November 20, 2008, the Respondent, through its parent corporation Pinnacle Entertainment, Inc., voluntarily recognized the Union as the exclusive collective-bargaining representative of the Unit.

On February 27, 2009, a representation election was conducted among the employees in the Unit and, on March 18, 2009, the Union was certified as the exclusive collective-bargaining representative of the Unit.

At all times since November 20, 2008, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation and the entire record and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board orders that:

The Respondent, Casino One Corporation d/b/a Lumière Place Casino & Hotels, its officers, agents, successors, and assigns shall

1. Cease and desist from:

(a) Telling employees not to discuss wage increases with other employees because wages are to be kept confidential.

(b) Telling employees that it would not disclose employee wage data to the Union unless the Union gave assurances that it would not disclose the wage data to employees because wage data is confidential and the Respondent does not want employees to know each other's wages.

(c) Prohibiting employees from distributing Union literature on a sidewalk in front of the Respondent's facility.

(d) Maintaining a discriminatory policy directing its supervisors to remove all Union literature from employee non-working areas while permitting non-Union related literature to remain in employee non-working areas.

(e) Giving employees a smaller promotional wage increase than they are entitled to because they joined or assisted the Union, gave testimony to the Board in the form of an affidavit, are the subject of an unfair labor practice charge filed by the Union, or were named in unfair labor practice complaints.

(f) Failing and refusing to bargain in good faith with the Union as the exclusive representative of the Unit by:

(i) unreasonably delaying in providing information requested by the Union that is necessary for and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative;

(ii) making changes to terms and conditions of employment of Unit employees without first notifying the Union and affording it an opportunity to bargain over the conduct, including, but not limited to:

(A) changing the manner it posts open cocktail server shifts by failing to post the floor section of the open shifts;

(B) eliminating Unit work by subcontracting mulching work;

(C) changing the operating hours of The Kitchen Buffet and reducing Unit employees' hours;

(D) changing its progressive disciplinary policy so that Unit employees' progressive discipline is left at the same level despite the drop-off of prior discipline for the same infraction after 1 year and terminating employees pursuant to this change;

(E) changing its practice of granting 90-day wage increases to Unit employees; and

(F) changing its practices regarding the assignment of overtime to Unit employees working in the beverage department and thereby reducing the availability of overtime opportunities;

(iii) failing to abide by agreements reached with the Union that the Respondent would count Unit employees' paid time off hours in its computation for determining those employees' eligibility for benefits, and that the Respondent would pay groundskeeping Unit employees for the hours they lost as a result of the Respondent's subcontracting mulching work to MS Lawncare, Inc.; and

(iv) bypassing the Union and engaging in direct dealing with Unit employees by soliciting Unit employees' complaints about their terms and conditions of employment and implementing changes as a result of those complaints, including, but not limited to, changing the operating hours of The Kitchen Buffet from 6:00 a.m. to 3:30 p.m. to 6:00 a.m. to 3:00 p.m. and reducing Unit employees' hours.

(g) In any other manner interfering with, restraining, or coercing its employees in the exercise of their right of self organization, to form labor organizations, to join or assist UNITE HERE, Local 74 or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Timely provide information requested by the Union that is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(b) Increase, by May 18, 2012, Curtis Jethro's wage rate by \$.81 per hour. Make whole, by June 1, 2012, Curtis Jethro for the loss of pay and benefits he suffered by reason of the Respondent's giving him, on June 28, 2011, a \$.17 per hour promotional wage increase rather than a \$.98-cent per hour increase, by payment to him of \$1,499.

(c) Make whole, by June 1, 2012, the following employees for any loss of pay and benefits they have suffered by reason of Respondent's failure to post the floor section of open cocktail server shifts¹ by payment to them of the amounts set forth opposite their respective names:

Saba Asgedom	\$76
Gail Bailey	\$568
Paula Ballew	\$334
Amy Bates	\$153
Joshua Belcher	\$76
Amy Blickenstaff	\$102
Tera Butler	\$77
Ashley Cardwell	\$76
Jamie Carpenter	\$616
Etoya Dickerson	\$77
Sonia Ellison	\$102
Darryanna Hendricks	\$77
Kristen Heard	\$102
Calie Huynh	\$306
Jonta Jackson	\$231
Dominique Jones	\$102
Michelle Jacquot	\$127
Kelsie Kiner	\$102
Jennifer Kuehn	\$383
Kelli Laub	\$1,052
Rachelle Parkhurst	\$205
Vanity Parks	\$153
Aaron Richardson	\$102
Kristin Riner	\$257
Ginnylyn Shumate	\$153
Daeghan Simms	\$459
Natalie Sirtak	\$255
Melissa Somraty	\$281
Vanessa Sotomayor	\$102
Lauren Thompson	\$102
Candace Turner	\$153
Dawn Vancil	\$76
Liz Veale	\$154
Toi Wise	\$179

¹ The Respondent has restored, and will continue the manner in which it posts open cocktail server shifts by including the floor section, date, and time of the shifts on such postings.

(d) Make whole, by June 1, 2012, the following employees for any loss of pay they have suffered by reason of Respondent's subcontracting of mulching work to MS Lawncare, Inc.,² by payment to them of the amounts set forth opposite their respective names:

Randy Harvey	\$365
Chris Hiscox	\$623
August Hughes	\$157
Charron Stokes	\$534
Terry Garrison	\$184
Curtis Jethro	\$358
Patrick Dooley	\$534

(e) Make whole, by June 1, 2012, the following employees for any loss of pay and benefits they have suffered by reason of the Respondent reducing Unit employees' hours in The Kitchen Buffet,³ by payment to them of the amounts set forth opposite their respective names:

Tammy Starks	\$1,032
Jessie Miller	\$890
Daniel Leonard	\$640
Shannon Morris	\$209
Janelle Clark	\$1,073
Tamika Parks	\$429
Kern Fenderson	\$210
Candice Wallace	\$1,013
Royce Kertz	\$1,004
Susan Potts	\$611

(f) Apply a progressive discipline policy so that Unit employees' progressive discipline drops down one level, after prior discipline for the same infraction drops off after one year.

(g) Revise, by June 1, 2012, all discipline issued since June 16, 2011, so that all progressive discipline is dropped down by one level where prior discipline for the same infraction has dropped off after one year, and advise employees in writing that this has been done.

² The Respondent has restored and will continue the assignment of mulching work to Unit employees.

³ The Respondent has offered to restore the operating hours of The Kitchen Buffet to 6:00 a.m. to 3:30 p.m. and to restore the hours of Unit employees working in The Kitchen Buffet to those that existed prior to May 30, 2011, and the Union has declined this offer.

(h) Restore, by June 1, 2012, Dawn Vancil's seniority and any other rights or privileges previously enjoyed, including restoring 60.98 hours of paid time off. Make whole, by June 1, 2012, Dawn Vancil for the loss of pay and benefits she suffered as a result of Respondent changing its progressive disciplinary policy by payment to her of \$16,661.⁴

(i) Grant all Unit employees a 2-percent wage increase upon completion of 90 days from their hire date and/or upon completion of 90 days from their transfer date into another classification.

(k) Make whole, by June 1, 2012, all Unit employees for any loss of pay and benefits they have suffered by reason of Respondent changing its practice of granting 90-day wage increases to Unit employees by payment to them of the amounts set forth opposite their respective names:

Delmar Baxter	\$50
Ella Cojocar	\$217
Tyrell Duff	\$133
Charles Hawa	\$103
Adam Henke	\$45
Robert Hickman	\$64
Joseph Johnson	\$210
Nicholas Kerberick	\$211
Angela McNight	\$13
Chris Murphy	\$95
Andre Randle	\$54
Charron Stokes	\$62
Kyaw Thaung	\$21
Christina Wertke	\$6
Brandon Wilson	\$11
Jamar Woodbury	\$22

(l) Restore its practices regarding the assignment of overtime to Unit employees working in the beverage department, including:

(i) restoring the practice of offering available bartender shifts first to bartenders who will not go into overtime and then to bartenders who will go into overtime;

(ii) discontinuing taking Unit employees off the schedule for one day when adding a holiday to their schedule;

⁴ Respondent has reinstated Dawn Vancil to her former position. In addition, the Respondent has made a valid offer of reinstatement to Saeid Divanbeigi, which was declined. The Respondent has made whole Divanbeigi for the loss of pay and benefits resulting from his termination.

(iii) restoring the practices of posting open cocktail server shifts and allowing cocktail servers to work those shifts even if it would put them into overtime.

(m) Advise, by June 1, 2012, all cocktail servers, in writing, that it has removed all discipline issued to cocktail servers, including Paula Ballew and Selver Morris, who were disciplined for going into overtime as a result of not clocking out immediately at the end of their shifts and that the discipline will not be relied on for any future personnel actions.⁵

(n) Make whole, by June 1, 2012, the following employees for any loss of pay and benefits they have suffered by reason of the Respondent reducing the amount of overtime available to Unit employees working in the beverage department and disciplining employees for going into overtime as a result of not clocking out immediately at the end of their shifts, by payment to them of the amounts set forth opposite their respective names:

Apresov, Boris S.	\$352
Arnett, Quenton	\$38
Bailey, Gail C.	\$494
Ballew, Paula	\$1,570
Bathon, Miles	\$413
Beckley, Genevieve	\$12
Beiermann, Byron K.	\$49
Belcher, Joshua	\$81
Bernal, Lionella V.	\$25
Blickenstaff, Amy	\$141
Borgmeyer, Taryn A.	\$242
Cardwell, Ashley M.	\$47
Carpenter, Jamie	\$342
Clark, Michael R.	\$331
Clayborn, Michael	\$47
Clubb, Adriane M.	\$83
Davis, Fontez D.	\$238
Deppe, Elena V.	\$79
Divanbeigi, Saeid	\$362
Farrar, Shanieka A.	\$90
Fleshman, Kyle	\$119
Geraci, Renee	\$5
Heard, Kristen A.	\$4
Henderson, Lajuan R.	\$63
Jacquot, Michelle M.	\$103
Jones, Avery	\$131
Jones, Dominique D.	\$138

⁵ The Respondent has removed all discipline issued to cocktail servers including Paula Ballew and Selver Morris who were disciplined pursuant to this policy.

Jordan, Johnny W.	\$117
Knau, Devin M.	\$2,453
Kuehn, Jennifer	\$91
Lask, Andrew J.	\$48
Lemanski, Olivia R.	\$127
Little, Demico A.	\$1,694
Litton, Lisa S.	\$11
Luttenbacher, David	\$12
Mayo, Daniel L.	\$39
McKnight, Angela	\$7
Meyer, Jeffrey	\$29
Meyer, Tabatha	\$36
Morris, Selver N.	\$99
Netemeyer, Jacob	\$176
Newble, Christina	\$11
Oconnor, Crystal	\$861
Parkhurst, Rachelle	\$235
Pomirko, Cynthia L.	\$836
Richardson, Aaron M.	\$2
Secic, Silvija	\$6
Shumate, Ginnylyn	\$33
Sirtak, Natalia	\$48
Smith, Carla A.	\$314
Smith, David	\$39
Somraty, Melissa	\$21
Sotomayor, Vanessa L.	\$622
Stretch, Joe T.	\$257
Tedford, James D.	\$49
Teffera, Nebeyou M.	\$75
Thompson, Lauren C.	\$89
Touchette, Caren J.	\$516
Turner, Candace L.	\$103
Urick, Elena	\$42
Vancil, Dawn	\$30
Veal, Christopher L.	\$553
Veale, Liz	\$48
Waterman, Amanda G.	\$248
Weik, Joshua C.	\$2,781
White, Eboni	\$1
Wise, Toi T.	\$4

(o) Count Unit employees' paid time off hours in its computation for determining Unit employees' eligibility for benefits.

(p) Make whole, by June 1, 2012, the following employees for any loss of pay and benefits they have suffered by reason of the Respondent's failure, since June 7,

2011, to count Unit employees paid time off hours in its computation for determining Unit employees' eligibility for benefits, by payment to them of the amounts set forth opposite their respective names:

Robert Lazenby	\$284
Janelle Clark	\$124
Michael Clark	\$494
Daniel Leonard	\$341
Joe Stretch	\$248

(q) Within 14 days of service by the Region, post at its St. Louis, Missouri, facility copies of the attached notice marked "Appendix A." Copies of the notice, on forms provided by Region 14, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically on the kiosks in Respondent's St. Louis, Missouri facility. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 1, 2011.

(r) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., July 18, 2012

Mark Gaston Pearce, Chairman

Brian E. Hayes, Member

Richard F. Griffin, Jr., Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO EMPLOYEES

**Posted by Order of the
National Labor Relations Board
An Agency of the United States Government**

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;
Choose representatives to bargain with us on your behalf;
Act together with other employees for your benefit and
protection;
Choose not to engage in any of these protected activities.

Accordingly, we give you our assurances that:

WE WILL NOT tell employees not to discuss wage increases with other employees because wages are to be kept confidential;

WE WILL NOT tell employees that we would not disclose wage data to the Union unless the Union provided assurances that it would not disclose the wage data to employees because wage data is confidential and we do not want employees to know each others' wages;

WE WILL NOT unlawfully prohibit employees from distributing Union literature;

WE WILL NOT maintain a discriminatory policy directing supervisors to remove all Union literature from employee non-working areas while permitting non-Union related literature to remain in employee non-working areas;

WE WILL NOT unreasonably delay in providing information requested by the Union that is necessary for, and relevant to, the performance of its duties as the exclusive collective-bargaining representative;

WE WILL NOT grant employees smaller wage increases than they are entitled to because of their Union activity or because they provide testimony to the National Labor Relations Board;

WE WILL NOT change Unit employees' terms and conditions of employment, without first notifying the Union, and affording the Union an opportunity to bargain over the conduct;

WE WILL NOT fail to abide by agreements reached with the Union;

WE WILL NOT bypass the Union and engage in direct dealing with Unit employees;

WE WILL NOT in any other manner interfere with your rights under Section 7 of the National Labor Relations Act;

WE WILL make whole Curtis Jethro for the loss of earnings and other benefits resulting from our granting him a smaller wage increase than he was entitled to;

WE WILL timely provide information requested by the Union that is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit;

WE HAVE restored and will continue the manner in which we post open cocktail server shifts by including the floor section, date, and time of the shifts on such postings;

WE WILL make whole all Unit cocktail servers who lost hours as a result of our failure to post the floor section of open cocktail server shifts, for the loss of earnings and other benefits resulting from this change;

WE HAVE restored and will continue the assignment of mulching work to Unit employees and WE WILL make whole all Unit groundskeepers who lost hours as a result of our subcontracting mulching work to MS Lawncare, Inc., and our failure to abide by our agreement with the Union to pay such employees for those lost hours;

WE WILL make whole all Unit employees who work in The Kitchen Buffet who lost hours as a result of our May 30, 2011, reduction in the hours of Unit employees working in The Kitchen Buffet, for the loss of earnings and other benefits resulting from this change;

WE WILL apply a progressive disciplinary policy so that Unit employees' progressive discipline drops down one level after prior discipline for the same infraction drops off after one year;

WE WILL revise all discipline issued to Unit employees since June 16, 2011, so that all progressive discipline is dropped down by one level where prior discipline for the same infraction has dropped off after one year and advise employees in writing that this has been done;

WE HAVE OFFERED reinstatement to Dawn Vancil and Saeid Divanbeigi to their former jobs and Saeid Divanbeigi has declined our offer. WE WILL restore all rights or privileges previously enjoyed by Dawn Vancil and WE WILL remove all references to their terminations from personnel files and advise them in writing that this has been done. WE HAVE made whole Saeid Divanbeigi and WE WILL make whole Dawn Vancil for any loss of earning and other benefits resulting from her termination;

WE WILL grant all Unit employees a 2-percent wage increase upon completion of 90 days from their hire date and/or upon completion of 90 days from their transfer date into another classification;

WE WILL make whole all Unit employees for any loss of pay and benefits they have suffered by reason of our changing the practice of granting 90-day wage increases to Unit employees;

WE WILL restore our practices regarding the assignment of overtime to Unit employees working in the beverage department, including offering available bartender shifts to bartenders who will not go into overtime and then to bartenders who will go into overtime, discontinue taking Unit employees off the schedule for one day when adding a holiday to their schedule, posting open cocktail server shifts and allowing cocktail servers to work open shifts regardless of whether the shift will put them into overtime, and remove all discipline issued to beverage department employees for not clocking out immediately at the end of their shift;

WE WILL make whole all Unit employees for any loss of pay and benefits they may have suffered by reason of our reducing the amount of overtime available to Unit employees working in the beverage department and disciplining employees for going into overtime as a result of not clocking out immediately at the end of their shifts; and

WE WILL immediately begin counting Unit employees' paid time off hours in our computation for determining Unit employees' eligibility for benefits. WE WILL make whole all Unit employees who lost pay or benefits by reason of our failure, since June 7, 2011, to count Unit employees' paid time off hours in our computation for determining Unit employees' eligibility for benefits.

CASINO ONE CORPORATION d/b/a
LUMIÈRE PLACE CASINO & HOTELS
(Employer)