

ATTACHMENT 3F

EXAMPLES OF EXCEPTIONS

I. WEINGARTEN VIOLATIONS

The General Counsel excepts to the following parts of the Chief ALJ's Decision:

(1) To the Chief ALJ's conclusion that Respondent did not violate section 7116(a)(1) and (8) of the Statute because "unit employee Jackie Crocker" did not make a request for union representation during the September 30, 1997 meeting between Crocker and Supervisors Jones and Roe regarding Crocker's time and attendance." ALJD at 13.

(2) To the Chief ALJ's conclusion that Respondent did not violate section 7116(a)(1) and (8) of the Statute because "union representative Bill Black was not required to remain silent during the examination of unit employee Sally Jones on October 30, 1997 regarding Jones' failure to work overtime on October 15, 1997. Rather, Bill Black was allowed three minutes at the beginning and end of the examination to participate to the extent necessary." ALJD at 18.

(3) To the Chief ALJ's conclusion that Respondents did not violate section 7116(a)(1) and (8) of the Statute when NASA OIG agent Steve Starr denied unit employee Bob Wright's request for union representation during a November 12, 1997 meeting between Wright and Starr concerning allegations that Wright had misused a government truck because the NASA OIG agent is not a representative of the agency within the meaning of section 7114(a)(2)(B)." ALJD at 16.

II. DATA INFORMATION

The General Counsel excepts to the following parts of the ALJ's Decision:

(1) To the ALJ's overall legal conclusion that the Respondent did not violate section 7116(a)(1), (5) and (8) of the Statute by failing and refusing to furnish the Union with the requested unsanitized annotated drug testing lists. ALJD 23.

(2) To the ALJ's conclusion that the "Union's stated reason for requesting the drug testing lists was too general and therefore failed to establish a

'particularized need' as required under section 7114(b)(4)(B)." ALJD at 20.

III. FORMAL DISCUSSION

The General Counsel excepts to the following parts of the Chief ALJ's Decision:

To the ALJ's legal conclusion that Respondent did not violate section 7116(a)(1) and (8) of the Statute when it failed to give the Charging Party notice and an opportunity to be represented at the discussion "because the discussion Labor Relations Officer Lacey had with unit employee Greene primarily concerned another supervisor's discrimination suit. Only a few minutes of the conversation was spent discussing the grievance involving Greene that was pending at Step 3." ALJD at 14.

IV. UNILATERAL CHANGE IN CONDITIONS OF EMPLOYMENT

The General Counsel excepts to the following parts of the Chief ALJ's Decision:

(1) To the ALJ's conclusion that Respondent did not violate section 7116(a)(1) and (5) of the Statute "because, before it implemented a new practice of parking which affected bargaining unit employees, the Respondent gave the union advance notice of, and an opportunity to bargain over, the change." ALJD at 15.

(2) To the ALJ's credibility determination supporting the legal conclusion: "I specifically credit the testimony of Respondent's Director of Labor Relations Jim Chase who testified that he sent an E-Mail message to the Union regarding this proposed new policy and gave the union 2 weeks within which to respond." ALJD at 16.

V. (a)(2) Discrimination

The General Counsel excepts to the following parts of the Chief ALJ's Decision:

(1) To the ALJ's conclusion that Respondent did not violate section 7116(a)(1) and (2) because "Respondent had a legitimate justification in issuing a letter of counseling to union steward Mark James." ALJD at 12.

(2) To the ALJ's conclusion that "documentary and testimonial evidence supports the Respondent's contention that Mr. James' involvement in filing seven unfair labor practice charges was not a motivating factor in the decision to

issue him a letter of counseling. In this regard, Respondent has produced exhibits showing that it has treated similarly-situated employees in the same manner--that five letters of counseling were issued to other unit employees for the same reason as that the letter of counseling was issued to Mr. James.” ALJD at 13.

VI. (a)(1) Statement

(1) To the ALJ’s conclusion that the Respondent did not violate section 7116(a)(1) of the Statute “by telling a unit employee Sandy Loon in a threatening tone words to the effect that the Union’s filing of grievances against Respondent would cause the Respondent to be closed down unless employees took action to stop these filings.” ALJD at 19.

(2) To the ALJ’s credibility determination supporting the above conclusion: “I credit the Respondent’s two managers whose testimony was entirely consistent and corroborative and established that the Respondent’s managers did not speak to unit employee Sandy Loon about the excessive filing of grievances by the Union.” ALJD at 19.