



United States Government

NATIONAL LABOR RELATIONS BOARD

Office of the Chairman

1015 Half Street, SE

Washington, DC 20570

September 24, 2018

The Honorable Elizabeth Warren
U.S. Senate
317 Hart Senate Office Building
Washington, DC 20510

The Honorable Tammy Baldwin
U.S. Senate
709 Hart Senate Office Building
Washington, DC 20510

The Honorable Kirsten Gillibrand
U.S. Senate
478 Russell Senate Office Building
Washington, DC 20510

The Honorable Cory A. Booker
U.S. Senate
359 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mazie Hirono
U.S. Senate
730 Hart Senate Office Building
Washington, DC 20510

Dear Senators Warren, Gillibrand, Hirono, Baldwin, and Booker:

I write in response to your letter dated September 17, 2018, regarding the National Labor Relations Board's invitation to the public to file briefs in *Caesars Entertainment Corporation d/b/a Rio All-Suites Hotel and Casino*, 28-CA-060841. You express concerns over the Board's decision to seek briefing regarding the holding in *Purple Communications*, a case decided in 2014 that changed settled law relating to workers' use of employer email. Your letter urges the Board not to change the *Purple Communications* standard. While advocating for this position, you also urge that Member William Emanuel should be recused from participating in *Rio All-Suites Hotel*.

At the outset, let me reiterate what I stated during my confirmation hearing and what I have repeated since then regarding my commitment to upholding ethical standards at the NLRB. I firmly believe it is essential to the public's trust in the NLRB that this Agency maintain the highest ethical standards. As Chairman, I consider it to be one of my primary responsibilities to ensure that everyone at the NLRB has ready access to clear guidance regarding their ethical duties, including their recusal obligations.

You noted my tweet of August 21, 2018, in which I stated: "It is essential that the NLRB recusal issues be handled under the prescribed government ethics rules and procedures – not driven by political considerations." I stand by this statement and will continue to enforce the Agency's ethics requirements. Under the prescribed government ethics rules and procedures I referenced in my tweet, Board member recusals are to be handled by the NLRB's Designated Agency Ethics Officer (DAEO). Our DAEO has the responsibility of providing the Board with independent and objective advice regarding these matters, and often does so in consultation with the Office of

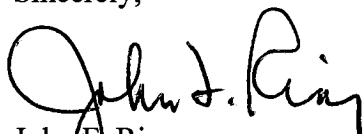
Government Ethics. As I have stated, nothing about recusal decisions should be based on politics – that is, on a desired outcome in a particular case or on the position some may anticipate that a particular Board Member might take in the case.

I can assure you that the Board has followed and will continue to follow our prescribed government ethics requirements in connection with the *Rio All-Suites Hotel* case. This is true both with respect to the request for briefing that was issued with Member Emanuel’s participation on August 1, 2018, and with respect to any subsequent action in that case.

With regard to your stated view that *Purple Communications* should remain undisturbed, rest assured that we recognize the importance of this issue. Indeed, the Board requested briefing from all interested parties to ensure we are fully informed of the arguments on all sides. As you know, three of the current four Board Members were not on the Board when *Purple Communications* was decided. We look forward to reviewing the briefs and to carefully considering all views. We will approach this case thoughtfully and with open minds, as we do in each of our cases.

If you have any other questions or concerns, please do not hesitate to contact me.

Sincerely,



John F. Ring
Chairman