

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**THE M RESORT, LLC d/b/a  
M RESORT SPA CASINO**

**and**

**Cases 28-CA-22299  
28-CA-22370**

**BRUCE ALLEN, an Individual**

**and**

**Case 28-CA-22309**

**RUSSELL L. SHOCK, JR., an Individual**

**and**

**Case 28-CA-22310**

**MICHAEL DeVITO, an Individual**

**and**

**Case 28-CA-22319**

**ROMAN MEDINA, an Individual**

**JOINT MOTION TO REMAND CASES TO THE REGIONAL DIRECTOR FOR  
THE PURPOSE OF EFFECTUATING COMPLIANCE WITH THE PARTIES'  
BOARD COMPLIANCE AGREEMENT**

Counsel for the General Counsel (CGC) and Counsel for the Respondent jointly move the Board to remand these proceedings, which have been transferred to and continued before the Board pursuant to the Administrative Law Judge's Decision and recommended Order (ALJD) which issued November 3, 2009, and is reported at JD(SF)-39-09, to the Regional Director for Region 28 of the Board (Regional Director) for the purpose of effectuating compliance with the parties' proposed Board compliance agreement.

Respondent filed exceptions in this matter on December 31, 2009. CGC filed an Answering Brief on January 14, 2010. Neither CGC nor the Charging Parties filed exceptions or cross exceptions with the Board. Subsequent to the issuance of the ALJD in this matter, the

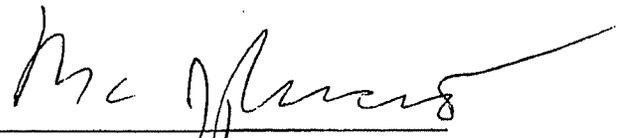
filing of exceptions by Respondent, and the filing of an answering brief by CGC, Charging Party Bruce Allen, Counsel for the Respondent, and CGC entered into a compliance agreement resolving all issues in this matter. Respondent has agreed that it will, if this motion is granted by the Board, comply with the parties' compliance agreement. Under the terms of the agreement, among other matters, Respondent will pay backpay to the two employees who are entitled to receive backpay as recommended in the ALJD and post the Notice to Employees as recommended in the ALJD.

Based on the foregoing, the parties jointly move that this matter be remanded to the Regional Director for the purpose of effectuating the terms of the Board compliance agreement.

Dated: May 25, 2010,

  
Joel C Schochet  
Counsel for the General Counsel  
National Labor Relations Board, Region 28  
Las Vegas Resident Office  
600 Las Vegas Boulevard South, Suite 400  
Las Vegas, NV 89101

Dated: May 27, 2010,

  
Mark J. Ricciardi  
Counsel for the Respondent  
Fisher & Phillips LLP  
3800 Howard Hughes Parkway, Suite 950  
Las Vegas, NV 89169

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**ROMAN MEDINA, an Individual**

**COMPLIANCE AGREEMENT**

This agreement is entered by The M Resort, LLC d/b/a M Resort Spa Casino (Respondent) and the General Counsel for the National Labor Relations Board (General Counsel), on behalf of the National Labor Relations Board (Board), in compliance with the Administrative Law Judge's decision and order in *M Resort Spa Casino*, JD(SF)-39-09 (ALJD). The ALJD requires Respondent to offer Bruce Allen and Dean Skibickyj (discriminatees) full reinstatement to their former positions and make them whole, with interest, for any loss of earnings and other benefits suffered as a result of their unlawful discharges; remove from its files any reference to the discriminatees' unlawful discharges; and post the Board's Notice to Employees. The parties agree that compliance with each of

the following terms will fully and completely fulfill Respondent's obligations under the ALJD.

1. (a) Respondent will pay the Board the backpay and interest owed to the discriminatees in the total amount of \$51,848.77, in the amounts and on the dates specified in the following installment plan:

<b>CHECK PAYABLE TO:</b>	<b>DATE OF PAYMENT:</b>	<b>PAYMENT:</b>	<b>TOTAL:</b>
Bruce Allen	Within ten days of Board remand	Backpay	\$36,265.58
Bruce Allen	Within ten days of Board remand	Interest	\$ 758.70
Dean Skibickyj	Within ten days of Board remand	Backpay	\$14,362.30
Dean Skibickyj	Within ten days of Board remand	Interest	\$ 462.20

(b) The payment shall consist of two checks payable to each named discriminatee. One check will be the amount of backpay owed, less deductions for social security and federal taxes and applicable state and local withholding taxes, with those deductions itemized on the check or an accompanying statement. The second check will be the amount of interest owed with no deductions. All payments to each discriminatee will be delivered to the offices of Region 28, National Labor Relations Board, Las Vegas Resident Office, 600 Las Vegas Boulevard South, Suite 400, Las Vegas, Nevada 89101, in the amounts and on the dates specified above on the table in paragraph 1(a).

(c) Respondent is responsible for transmitting to the appropriate federal, state, and local agencies all withholding and social security taxes deducted from backpay payments. Respondent is also responsible for paying its share of the social security taxes (FICA) due and payable on the backpay amounts. Again, no deductions are to be made on interest amounts. At the end of the year, Respondent is further responsible for reporting to the Internal Revenue Service the total backpay and interest amounts paid, but report them separately, with backpay reported on W-2 statements, and interest reported on 1099 forms.

2. Respondent will not be required to offer the discriminatees reinstatement to their former position as the discriminatees, for purposes of this agreement only, have waived their reinstatement rights.

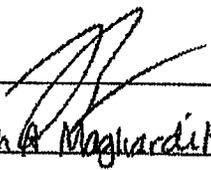
3. Respondent will remove from its files any reference to the discriminatees' unlawful discharge and notify the Regional Director of Region 28 of the Board, in writing and within fourteen (14) days of the approval of the Agreement, that it has taken such action.

4. Respondent will post in conspicuous places in and about its facility located at 12300 Las Vegas Boulevard, Henderson, Nevada 89044, including all places where notices to employees are customarily posted, and maintain for 60 consecutive days from the date of posting, copies of the attached Notice to Employees, which copies shall be signed by a responsible official of Respondent and the date of actual posting to be shown thereon.

8. After Respondent has fully complied with its obligations under the terms of this agreement, Region 28 will notify the Board, in writing, that Respondent has complied fully with the ALJD.

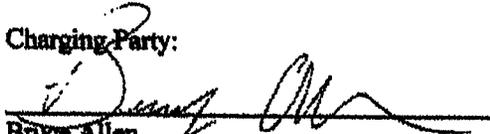
9. This agreement may be signed in counterparts. (Photographic and/or facsimile copies of a signed counterpart may be used in place of the original.)

The M Resort, LLC d/b/a M Resort Spa Casino

By:  \_\_\_\_\_  
Joseph A. Magliarditi  
Title: \_\_\_\_\_

Date: 5/7/10

Charging Party:

  
Bruce Allen

Date: 4-23-10

Approved by:

  
Cornele A. Overstreet  
Regional Director, Region 28  
National Labor Relations Board

Date: 5/22/10

## CERTIFICATE OF SERVICE

I hereby certify that the **JOINT MOTION TO REMAND CASES TO THE REGIONAL DIRECTOR FOR THE PURPOSE OF EFFECTUATING COMPLIANCE WITH THE PARTIES' BOARD COMPLIANCE AGREEMENT**, in Cases 28-CA-22299, 28-CA-22309, 28-CA-22310, 28-CA-22319 and 28-CA-22370, was served via E-Gov, E-Filing, and by E-Mail, on this 28<sup>th</sup> day of May, 2010, on the following:

***Via E-gov, E-Filing:***

Lester E. Heltzer, Executive Secretary  
National Labor Relations Board  
Office of the Executive Secretary  
1099 14<sup>th</sup> Street NW, Room 11602  
Washington, DC 20570

***Via E-Mail:***

Mark J. Ricciardi, Attorney at Law  
Fisher & Phillips, LLP  
3800 Howard Hughes Parkway, Suite 950  
Las Vegas, NV 89169  
E-Mail: [mricciardi@laborlawyers.com](mailto:mricciardi@laborlawyers.com)

Mr. Bruce Allen  
E-Mail: [dprotctr@hotmail.com](mailto:dprotctr@hotmail.com)

***/s/ Dawn M. Moore***

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Dawn M. Moore, Compliance Assistant  
National Labor Relations Board  
Region 28 - Las Vegas Resident Office  
600 Las Vegas Boulevard South, Suite 400  
Las Vegas, Nevada 89101-6637  
Telephone: (702) 388-6417  
E-Mail: [dawn.moore@nlrb.gov](mailto:dawn.moore@nlrb.gov)