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CONFIDENTIAL ATTORNEY CLIENT PRIVILEGED MEMORANDUM

DATE: May 3, 2016

TO: Hotel Association of New York City, Inc.
Labor Relations Members
General Managers, Human Resources Directors and Controllers

FROM: Kane Kessler, P.C.
Labor and Employment Law Practice Group

RE: Night Shift Differential: Notice of Meeting

As we have reported, the U.S. Department of Labor contacted the Hotel Trades Council and the Hotel Association regarding the provisions in the IWA and Division A Collective Bargaining Agreement which, contrary to the Fair Labor Standards Act ("FLSA"), exempt night shift differential from the calculation of certain overtime. The FLSA requires the inclusion of night shift differential pay in the calculation of overtime for hours worked over forty (40) in a workweek.

Thereafter, the Union distributed RFI's to all Hotels and concessionaires seeking payroll and related information. More recently, the Union has begun to send agreements to Hotels that contain a schedule for back pay related to the alleged failure to include night shift differential in the calculation of FLSA and contractual overtime. These agreements obligate Hotels to include night shift differential in the calculation of all overtime, not solely FLSA overtime.

We have instructed Hotels not to comply at this time with the Union's request to sign an agreement and pay monies as back pay.

We are scheduling a meeting on Thursday, May 12th at 10:30 a.m. to discuss this situation in depth:

Date: Thursday, May 12, 2016

Time: 10:30 a.m.

Location: Grand Hyatt New York
109 East 42nd St. at Grand Central Terminal
New York, NY 10017
(Ballroom 1, Ballroom level)

We look forward to seeing you on May 12th.

If you have any questions, please do not hesitate to contact David R. Rothfeld, Lois M. Traub, Alexander Soric, Jennifer Schmalz, Jaclyn Ruocco, Robert L. Sacks, or Michael C. Lydakis.

cc: Joseph E. Spinnato, Esq.
Vijay Dandapani, Chairman