

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

In the Matter of

ENCLOSURE SUPPLIERS, LLC

and

Case 9-CA-46169

IRON WORKERS SHOPMEN'S LOCAL
UNION NO 468 OF THE INTERNATIONAL
ASSOCIATION OF BRIDGE, STRUCTURAL,
ORNAMENTAL AND REINFORCEMENT
IRON WORKERS

**REQUEST FOR PERMISSION TO APPEAL RULING
OF ADMINISTRATIVE LAW JUDGE AND APPEAL**

I. INTRODUCTION:

Pursuant to Section 102.26 of the Rules and Regulations of the National Labor Relations Board, permission is requested to appeal the ruling of Administrative Law Judge Ira Sandron to approve an informal Board settlement agreement in the above-captioned matter. This appeal is taken because the judge's approval of the settlement is contrary to Board law and policy.

II. REASONS SPECIAL PERMISSION SHOULD BE GRANTED:

On January 26, 2011, the Regional Director for Region 9, issued a complaint alleging, inter alia, that on various dates Respondent coercively interrogated its employees about their union sympathies in violation of Section 8(a)(1) of the Act. (A copy of the Complaint and Notice of Hearing is attached hereto as Exhibit A.)

Prior to the opening of the hearing in this matter and after failed efforts to amicably resolve this matter, Respondent proposed an informal Board settlement agreement which the Administrative Law Judge stated that he would approve over the objections of Counsel for the Acting General Counsel and the Charging Party. (A copy of the settlement agreement is attached

hereto as Exhibit B.) Thereafter, on March 16, 2011, the Administrative Law Judge telephonically opened the hearing and, notwithstanding the objections of Counsel for the Acting General Counsel, approved the settlement agreement proposed by Respondent. ^{1/} The settlement approved by the Judge, in relevant part, provides that, “The Charged Party will comply with all the terms and provisions of said Notice **during the posting period.**” (emphasis supplied) Whereas, the standard informal settlement agreement form provides that, “the Charged Party will comply with all the terms and provisions of said Notice.” ^{2/} (A copy of the standard settlement agreement form is attached hereto as Exhibit C.) In approving the settlement the Administrative Law Judge stated that the settlement met the requirements of *Independent Stave*, 287 NLRB 740 (1987) and stated that approval of the settlement would effectuate the purposes of the Act. It is respectfully submitted that the Judge’s ruling is wrong on both counts and should be reversed.

III. GROUNDS RELIED ON FOR APPEAL:

Contrary to the Judge’s position, the settlement does not satisfy all the requirements of *Independent Stave*. In deciding whether to accept a settlement agreement, the Board has considered the following factors: (1) whether the charging party and Respondent agreed to be bound and the position taken by the General Counsel regarding the settlement; (2) whether the settlement is reasonable in light of the nature of the violation alleged, the risks inherent in litigation, and the stage of the litigation; (3) whether there has been any fraud, coercion or duress by any of the parties in reaching the settlement and (4) whether respondent has engaged in a history of violations of the Act or has breached previous settlement agreements resolving unfair labor practice disputes. *Independent Stave Co.*, supra. (non-Board settlement); *K & W Electric*,

^{1/} The Charging Party did not participate in the telephonic hearing.

^{2/} Form NLRB-5378

327 NLRB, 70, (1998); (Board settlement); *Woodworkers Local 3-433 (Kimtruss Corp.)*, 304 NLRB 1, 2, (1991) (Board settlement). As to the first factor to be considered, the Charging Party Union has not agreed to be bound by the settlement. Further, the Acting General Counsel stated on the record its objection to the settlement and did not agree to be bound by the settlement. As to the second factor, the Acting General Counsel submits that the settlement as currently worded is patently unreasonable because it does not provide a full remedy for the unfair labor practices alleged in the complaint. Thus, although the complaint alleges that Respondent unlawfully interrogated its employees about their union sympathies and the Notice states that Respondent will not engage in any like or related conduct, the settlement agreement itself states that Respondent need only refrain from this activity during the posting period. It is unreasonable for a settlement to expressly or implicitly provide or suggest that a respondent is only required to refrain from unlawful activity during the posting period of the Notice.^{3/} Moreover, the Acting General Counsel is unaware of any situation where the Board has approved limiting compliance with the provisions of the Notice to a defined period. Thus, the settlement by limiting Respondent's compliance obligation to the 60-day posting period of the Notice, implies that Respondent is free to engage in further violations of the Act one day after the posting period ends without fear of violating the terms of the settlement. Indeed, the settlement as it currently reads renders a nullity the remaining provision of the Notice that requires Respondent to not, in any like or related manner, interfere with, restrain, or coerce its employees' exercise of their Section 7 rights. In addition, the settlement is not reasonable because the provision that requires compliance to the terms of the Notice during the posting period renders the default language in

^{3/} Indeed, provisions of the settlement agreements have always been viewed as remaining in effect even after closure of the case. See e.g., Section 10594.12 of the National Labor Relations Board's Manual for Compliance Proceedings.

the settlement meaningless as it pertains to post settlement conduct. ^{4/} Thus, if Respondent were to engage in post settlement unfair labor practices, the Acting General Counsel would not be able to obtain the summary judgment as provided for in the default language of the settlement agreement because the settlement agreement put an express limitation on Respondent's obligation to refrain from engaging in unlawful conduct. ^{5/}

Finally, contrary to the Judge's assertion, the settlement does not effectuate the purpose or policies of the Act. Instead, the settlement with its current limitations on compliance does just the opposite. Thus, the Notice to Employees merely states what Respondent is lawfully required to do; that is, refrain from unlawfully interfering with employees' Section 7 rights. This settlement, however, whether purposely or unintentionally, conveys the impression that this respondent need only comply with the provisions of the Act during the posting period of the Notice. This result does not effectuate the Act. It is wrong for the settlement to convey that impression, it is wrong for the Judge to have approved such a settlement, and for these reasons this settlement does not effectuate the purpose or policies of the Act and should not have been approved.

IV. CONCLUSION:

For the reasons discussed above, Counsel for the Acting General Counsel submits that Administrative Law Judge abused his discretion by unilaterally approving the settlement.

^{4/} The default language in the Settlement is contained in the section entitled "Performance," and it provides, in relevant part:

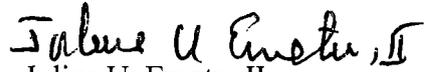
The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will reissue the complaint previously issued in the instant case(s). Thereafter, the General Counsel may file a motion for summary judgment with the Board on the allegations of the complaint. The charged Party understands and agrees that the allegations of the aforementioned complaint will be deemed admitted and its Answer to such complaint will be considered withdrawn. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement.

^{5/} There is no contention that the settlement was obtained through fraud, duress or coercion or that this particular Respondent has a proclivity for violating the Act.

Accordingly, the Board should reverse the Administrative Law Judge's Decision and remand the matter back to him with instructions to conduct a full evidentiary hearing, absent settlement.

Dated at Cincinnati, Ohio this 22nd day of March 2011.

Respectfully submitted,



Julius U. Emetu, II
Counsel for the Acting General Counsel
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

Attachments

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

In the Matter of

ENCLOSURE SUPPLIERS, LLC

and

Case 9-CA-46169

IRON WORKERS SHOPMEN'S LOCAL UNION
NO. 468 OF THE INTERNATIONAL ASSOCIATION
OF BRIDGE, STRUCTURAL, ORNAMENTAL AND
REINFORCING IRON WORKERS

COMPLAINT
AND
NOTICE OF HEARING

Iron Workers Shopmen's Local Union No. 468 of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, herein called the Union, has charged that Enclosures Suppliers, Inc., herein described by the correct name Enclosure Suppliers, LLC, herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. § 151, et seq., herein called the Act. Based thereon the Acting General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, issues this Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge was filed by the Union on December 21, 2010, and a copy was served by regular mail on Respondent on the same date.

(b) An amended charge was filed by the Union on January 18, 2011, and a copy was served by regular mail on Respondent on January 19, 2011.

2. (a) At all material times, Respondent has been engaged in the manufacture of patio enclosures at its facility in Sharonville, Ohio.

(b) During the past 12 months, Respondent, in conducting its operations described above in paragraph 2(a), sold and shipped goods and materials valued in excess of \$50,000 from its Sharonville, Ohio facility directly to points outside the State of Ohio.

(c) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the position set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act.

| | | |
|----------------|---|-----------------------|
| Wayne Morrison | - | General Manager |
| Brad Williams | - | Production Supervisor |
| Ted Mattson | - | Production Supervisor |

5. (a) About July 2010, a more precise date being presently unknown to the Acting General Counsel, Respondent, by Brad Williams, at its Sharonville, Ohio facility, interrogated employees about their union sympathies.

(b) About July 2010, a more precise date being presently unknown to the Acting General Counsel, Respondent, by Ted Mattson, at its Sharonville, Ohio facility, interrogated employees about their union sympathies.

6. By the conduct described above in paragraph 5, Respondent has been interfering with, restraining and coercing employees in the exercise of their rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

7. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be received by this office on or before **February 9, 2011**, or postmarked on or before **February 8, 2011**. Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

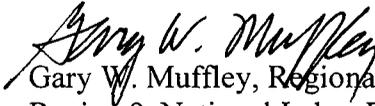
An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on the **E-Gov tab**, select **E-Filing**, and then follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE that on **March 16, 2011, 9 a.m.**, at **Room 3003, John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Cincinnati, Ohio this 26th day of January 2011.


Gary W. Muffley, Regional Director
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

Attachments

Form NI, RB-5378
(3-07)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT
APPROVED BY AN ADMINISTRATIVE LAW JUDGE

IN THE MATTER OF: ENCLOSURE SUPPLIERS, LLC
CASE 9-CA-46169

The undersigned Charged Party, in settlement of the above matter, and subject to the approval of the Administrative Law Judge for the National Labor Relations Board, HEREBY AGREES AS FOLLOWS:

POSTING OF NOTICE — Upon receipt by the Charged Party of notice that no review has been requested or that the Board has sustained the Administrative Law Judge, and upon receipt of the Notices from the Region, which may include Notices in more than one language as deemed appropriate by the Regional Director, the Charged Party will post immediately in conspicuous places in and about its plant/office, including all places where notices to employees/members are customarily posted, and maintain for 60 consecutive days from the date of posting, copies of the attached Notice (and versions in other languages as deemed appropriate by the Regional Director) made a part hereof, said Notice to be signed by a responsible official of the Charged Party and the date of actual posting to be shown thereon.

In addition to physical posting of paper notices, notices shall be distributed electronically, such as by e-mail, posting on an intranet or an internet site, or other electronic means, if the Charged Party customarily communicates with its employees or members by such means. The electronic posting shall remain posted for 60 consecutive days from the date it was originally posted. The Charged Party will e-mail the Region's Compliance Officer at jon.grove@nrlrb.gov with a link to the electronic posting location on the same day as the posting. In the event that passwords or other log-on information is required to access the electronic posting, the Charged Party agrees to provide such access information to the Region's Compliance Officer. If the Notice is distributed via e-mail, the charged party will forward a copy of the e-mail distributed to the Regional Compliance Officer.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice during the posting period.

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), and does not constitute a settlement of any other case(s) or matters. It does not preclude persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters which precede the date of the approval of this Agreement regardless of whether such matters are known to the General Counsel or are readily discoverable. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

NON-ADMISSION CLAUSE — By executing this Agreement the Charged Party does not admit to violating the National Labor Relations Act.

APPROVAL OF UNILATERAL SETTLEMENT AGREEMENT - In the event the Charging Party, or Counsel for the General Counsel, fails or refuses to become a party to this Agreement, and if in the Administrative Law Judge's discretion it will effectuate the policies of the National Labor Relations Act, the Administrative Law Judge, after providing such party an opportunity to state on the record or in writing its reasons for opposing the Agreement, may approve the Agreement. Any party aggrieved by the ruling of the Administrative Law Judge approving the Agreement may ask for leave to appeal to the board as provided in Section 102.26 of the Board's Rules and Regulations.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY.
Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes RDS
 Initials
No _____
 Initials

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Administrative Law Judge, or if the Charging Party or General Counsel does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the Board has sustained the Administrative Law Judge.

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will reissue the complaint previously issued in the instant case(s). Thereafter, the General Counsel may file a motion for summary judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that the allegations of the aforementioned complaint will be deemed admitted and its Answer to such complaint will be considered withdrawn. The only issue that may be raised before the Board is whether the Charged Party defaulted

EXHIBIT B

ALJ EXH. 1

Form NLRB-5376
(3-07)

on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party, on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is customary to remedy such violations. The parties further agree that the U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte.

NOTIFICATION OF COMPLIANCE — The undersigned party to this Agreement will notify the Regional Director in writing what steps the Charged Party has taken to comply herewith. Such notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. In the event the Charging Party or the General Counsel do not enter into this Agreement, Initial notice shall be given within 5 days after notification from the Regional Director that no appeal has been filed or that the Board has sustained the Administrative Law Judge. Upon notification of compliance with the terms and provisions hereof and the filing of a motion to withdraw the complaint and no motion in opposition thereto having been granted, the Administrative Law Judge shall issue an order approving the withdrawal of the complaint and notice of hearing heretofore issued in this case, as well as any answer(s) filed in response. Contingent upon compliance with the terms and provisions hereof, no further action shall be taken in this case..

| | | | |
|---|-----------------|---|-----------------|
| Charged Party Enclosure Suppliers, LLC | | Charging Party Iron Workers Shopmen's Local Union No. 468 | |
| By: Name and Title <i>Robert D. Shank</i> Robert D. Shank, Attorney | Date 3-15-11 | (Declined to sign) Name and Title Amy Zawacki, Attorney | Date |
| (Declined to sign) | Date | Approved By: <i>Ira Sandron</i> Ira Sandron Administrative Law Judge National Labor Relations Board | Date 3/16/11 |

205473v2

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A SETTLEMENT AGREEMENT APPROVED BY AN ADMINISTRATIVE LAW JUDGE

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

WE WILL NOT ask you about your union sympathies on behalf of Iron Workers Shopmen's Local Union No. 468 or any other union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights set forth above.

Enclosure Suppliers, LLC
(Employer)

Dated: 3/15/11

By: Wyne Morrison General Manager
(Responsible Official) (Title)

550 Main Street - JWP Federal Office Bldg, Rm 3003 - Cincinnati, OH 45202
Telephone: (513) 684-3686 - Hours of Operation: 8:30 am to 5 pm

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF:

The undersigned Charged Party and the undersigned Charging Party, in settlement of the above matter, and subject to the approval of the Regional Director for the National Labor Relations Board, HEREBY AGREE AS FOLLOWS:

POSTING OF NOTICE — Upon approval of this Agreement and receipt of the Notices from the Region, which may include Notices in more than one language as deemed appropriate by the Regional Director, the Charged Party will post immediately in conspicuous places in and about its plant/office, including all places where notices to employees/members are customarily posted, and maintain for 60 consecutive days from the date of posting, copies of the attached Notice (and versions in other languages as deemed appropriate by the Regional Director) made a part hereof, said Notices to be signed by a responsible official of the Charged Party and the date of actual posting to be shown thereon. In the event this Agreement is in settlement of a charge against a union, the union will submit forthwith signed copies of said Notice to the Regional Director who will forward them to the employer whose employees are involved herein, for posting, the employer willing, in conspicuous places in and about the employer's plant where they shall be maintained for 60 consecutive days from the date of posting. Further, in the event that the charged union maintains such bulletin boards at the facility of the employer where the alleged unfair labor practices occurred, the union shall also post Notices on each such bulletin board during the posting period.

In addition to physical posting of paper notices, notices shall be distributed electronically, such as by e-mail, posting on an intranet or an internet site, or other electronic means, if the Charged Party customarily communicates with its employees or members by such means. The electronic posting shall remain posted for 60 consecutive days from the date it was originally posted. The Charged Party will e-mail the Region's Compliance Officer at _____ with a link to the electronic posting location on the same day as the posting. In the event that passwords or other log-on information is required to access the electronic posting, the Charged Party agrees to provide such access information to the Region's Compliance Officer. If the Notice is distributed via e-mail, the charged party will forward a copy of the e-mail distributed to the Regional Compliance Officer.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), and does not constitute a settlement of any other case(s) or matters. It does not preclude persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters which precede the date of the approval of this Agreement regardless of whether such matters are known to the General Counsel or are readily discoverable. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

REFUSAL TO ISSUE COMPLAINT — In the event the Charging Party fails or refuses to become a party to this Agreement, and if in the Regional Director's discretion it will effectuate the policies of the National Labor Relations Act, the Regional Director shall decline to issue a Complaint herein (or a new Complaint if one has been withdrawn pursuant to the terms of this Agreement), and this Agreement shall be between the Charged Party and the undersigned Regional Director. A review of such action may be obtained pursuant to Section 102.19 of the Rules and Regulations of the Board if a request for same is filed within 14 days thereof. This Agreement shall be null and void if the General Counsel does not sustain the Regional Director's action in the event of a review. Approval of this Agreement by the Regional Director shall constitute withdrawal of any Complaint(s) and Notice of Hearing heretofore issued in the above captioned case(s), as well as any answer(s) filed in response.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY.

Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes _____ No _____
 Initials Initials

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will reissue the complaint previously issued on [date] in the instant case(s). Thereafter, the General Counsel may file a motion for summary judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that the allegations of the aforementioned complaint will be deemed admitted and its Answer to such complaint will be considered withdrawn. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law

consistent with those allegations adverse to the Charged Party, on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is customary to remedy such violations. The parties further agree that the U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte.

NOTIFICATION OF COMPLIANCE — The undersigned parties to this Agreement will each notify the Regional Director in writing what steps the Charged Party has taken to comply herewith. Such notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. In the event the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that no review has been requested or that the General Counsel has sustained the Regional Director. Contingent upon compliance with the terms and provisions hereof, no further action shall be taken in the above captioned case(s).

| Charged | | Charging Party | |
|-------------------------------|------|----------------------------------|------|
| By: Name and Title | Date | By Name and Title | Date |
| Recommended By: (Board Agent) | Date | Approved By: (Regional Director) | Date |

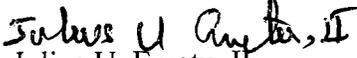
CERTIFICATE OF SERVICE

March 22, 2011

I hereby certify that I served the attached Counsel for the Acting General Counsel's Request for Permission to Appeal Ruling of Administrative Law Judge and Appeal, by electronic mail to the following at the addresses listed below:

Mr. Robert Shank
Attorney at Law
Denlinger, Rosenthal & Greenberg, LPA
425 Walnut Street, Suite 2300
Cincinnati, OH 45202
rds@drgfir.com

Ms. Amy Zawacki
Attorney at Law
2222 Centennial Road
Toledo, OH 43617
azawacki@afwlaw.com


Julius U. Emetu, II
Counsel for the Acting General Counsel
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271