

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

REPUBLIC SERVICES, INC.

and

Cases 25-CA-31683 Amended
25-CA-31708 Amended
25-CA-31709 Amended
25-CA-31813 Amended

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL UNION NO. 150,
AFL-CIO, a/w INTERNATIONAL UNION
OF OPERATING ENGINEERS, AFL-CIO

ACTING GENERAL COUNSEL'S EXCEPTIONS
TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE

Comes now Counsel for the Acting General Counsel and, for the reasons set forth in the Acting General Counsel's Brief in Support of Exceptions to the Decision of the Administrative Law Judge filed herewith, respectfully excepts to the Administrative Law Judge's Decision issued in the above-captioned cases on June 21, 2011.

Acting General Counsel Exception 1

Counsel for the Acting General Counsel (herein CAGC) excepts to the Judge's failure to find and conclude that Republic Services, Inc., hereinafter referred to as Respondent, by Area Human Resources Manager Rodney Adkinson, informed employees that they were no longer represented by the International Union of Operating Engineers, Local Union No. 150, hereinafter referred to as the Union, on November 12, 2010 in violation of Section 8(a)(1) of the National Labor Relation Act (Act) (Decision, page 12, lines 33-48; page 13, lines 1-37). CAGC also excepts to the Judge's concomitant failure to provide for an appropriate remedy and Notice

provision regarding the above violation of the Act (Decision, page 13, lines 21-42; page 14, lines 1-15; Appendix).

Acting General Counsel Exception 2

CAGC excepts to the Judge's failure to find and conclude that Respondent, by written memo, informed employees that employees at Respondent's facility were no longer represented by the Union on November 12, 2010 in violation of Section 8(a)(1) of the Act (Decision, page 12, lines 33-48; page 13, lines 1-37). CAGC also excepts to the Judge's concomitant failure to provide for an appropriate remedy and Notice provision regarding the above violation of the Act (Decision, page 13, lines 21-42; page 14, lines 1-15; Appendix).

Acting General Counsel Exception 3

CAGC excepts to the Judge's findings and conclusions that Respondent did not violate Section 8(a)(1) and (5) of the Act when Respondent transferred Wayne Miller, an employee from a non-Union facility, to Respondent's Countyline Landfill to perform bargaining unit work on November 12, 2010 rather than contacting the Union to obtain a referred person from the Union hall to fill the position pursuant to the parties' collective-bargaining agreement (Decision, page 6, lines 16-39; page 7, lines 1-3). CAGC also excepts to Judge's concomitant failure to provide for an appropriate remedy and Notice provision regarding the above violation of the Act (Decision, page 13, lines 21-42; page 14, lines 1-15; Appendix).

Acting General Counsel Exception 4

CAGC excepts to the Judge's refusal to find and conclude that Respondent could not withdraw recognition from the Union because Respondent cannot demonstrate a loss of majority support since grievances are pending regarding the termination of the three employees (Decision, 8, lines 1-47).

Acting General Counsel Exception 5

CAGC excepts to the Judge's findings and conclusions that Respondent did not violate Section 8(a)(1) and (5) by changing its vacation pay policy about February 4, 2011 and implementing a wage increase for employees about March 1, 2011 after the expiration of the parties' collective-bargaining agreement since the Respondent possessed evidence that the Union lost majority status (Decision, page 7, lines 35-43; page 8, lines 1-40; page 9, lines 6-9). CAGC also excepts to Judge's concomitant failure to provide for an appropriate remedy and Notice provision regarding the above violation of the Act (Decision, page 13, lines 21-42; page 14, lines 1-15; Appendix).

Acting General Counsel Exception 6

CAGC excepts to the Judge's failure to find and conclude that a bargaining order was the appropriate remedy for Respondent's unlawful withdrawal of recognition from the Union, subsequent unilateral changes, and unlawful statements pursuant to the Board's decision in Spectrum Health-Kent Community Campus, 355 NLRB No. 101 (Aug. 23, 2010), affirming 353 NLRB 996 (2009) (two-member decision), appeal pending Case 10-1260 (D.C. Cir.) (Decision, page 10, lines 38-43; page 11, lines 1-46). CAGC also excepts to Judge's concomitant failure to provide a Notice provision regarding a bargaining order remedy (Decision, page 13, lines 21-42; page 14, lines 1-15; Appendix).

Acting General Counsel Exception 7

CAGC excepts to the Judge's finding that, according to paragraph 7(a) rather than paragraphs 7(c)(i) and 7(c)(ii) of the complaint, Respondent violated the Act by initially denying and later limiting the access of Union officials to Respondent's facility since on or about November 11, 2010 (Decision, page 7, lines 15-18).

Acting General Counsel Exception 8

CAGC excepts to the Judge's finding and conclusion that, if arbitration resulted in reinstatement for the three discharged employees, Respondent would be obligated to resume recognition with the Union (Decision, page 8, lines 45-47).

Acting General Counsel Exception 9

CAGC excepts to the Judge's finding and conclusion that Respondent temporarily violated the Act by failing to deduct Union dues for pay periods November 14 thru 27, 2010 (Decision, page 9, footnote 7, lines 42-48).

Acting General Counsel Exception 10

CAGC excepts to the Judge's failure to find and conclude that Respondent failed to recognize and bargain with the Union in violation of Section 8(a)(1) and (5) of the Act based upon Respondent's unlawful withdrawal of recognition pursuant to paragraph 7(a) of the complaint. CAGC also excepts to Judge's concomitant failure to provide for an appropriate remedy and Notice provision regarding the above violation of the Act (Decision, page 13, lines 21-42; page 14, lines 1-15; Appendix).

Acting General Counsel Exception 11

CAGC excepts to the Judge's failure to find and conclude that Respondent violated Section 8(d) of the Act even though the Judge found that Respondent made changes to employees' terms and conditions of employment during the term of the parties' collective-bargaining agreement (Decision, page 12, lines 28-40; page 13, lines 1-40).

DATED at Indianapolis, Indiana, this 19th day of July 2011.

Respectfully submitted,

/s/ Raifael Williams

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