

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**

OLDCASTLE BUILDINGENVELOPE, INC.

Respondent

AND

**Cases 16-CA-027988
and
16-CA-066100**

**UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY,
ALLIED INDUSTRIAL AND SERVICE
WORKERS INTERNATIONAL UNION,
AFL-CIO**

Charging Party

FORMAL SETTLEMENT STIPULATION

I. INTRODUCTION

Through this formal settlement stipulation, the parties to this proceeding – Oldcastle BuildingEnvelope, Inc. (Respondent), United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO (Charging Party), and the Acting General Counsel of the National Labor Relations Board – agree that, upon approval of this stipulation by the Board, a Board Order in conformity with its terms will issue.

The parties also agree to the following:

OR
[Signature]
3/30/2012

II. JURISDICTION

A. Respondent is a corporation with an office and place of business in Terrell, Texas, where it is engaged in the manufacture and sale of architectural framing systems for office buildings, office campuses, medical buildings and other retail and commercial complexes.

B. In conducting its business operations at the Terrell facility during the one-year period ending December 31, 2011, Respondent purchased and received goods valued in excess of \$50,000 directly from points outside the State of Texas.

C. For purposes of this settlement agreement, the term "Respondent" shall refer to and include only the Oldcastle BuildingEnvelope, Inc. Terrell, Texas facility.

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

III. LABOR ORGANIZATION STATUS

The Charging Party is a labor organization within the meaning of Section 2(5) of the Act.

IV. PROCEDURE

1) FILING AND RECEIPT OF CHARGES.

A. On April 22, 2011, the Charging Party filed a charge in Case No. 16-CA-27988, which was served on Respondent on the same date. On May 11, 2011, the Charging Party filed an amended charge in Case No. 16-CA-27988, which was served on Respondent on May 12, 2011. Respondent acknowledges receipt of the charge and the amended charge.

B. On October 4, 2011, Charging Party filed a charge in Case No. 16-CA-066100, which was served on Respondent on October 5, 2011. Respondent acknowledges receipt of the charge.

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2) **ISSUANCE OF COMPLAINTS.**

On January 31, 2012, the Regional Director for Region 16 of the Board issued an Order Revoking Settlement, Consolidating Cases, Consolidated Complaint and Notice of Hearing in Cases 16-CA-027988 and 16-CA-066100, alleging that Respondent violated the National Labor Relations Act. Respondent and the Charging Party each acknowledge receipt of a copy of the Order Revoking Settlement, Consolidating Cases, Consolidated Complaint and Notice of Hearing, which was served by first class mail on the date referenced above. By entering into this Stipulation, the parties agree that the Answer to the Order Revoking Settlement, Consolidating Cases, Consolidated Complaint and Notice of Hearing filed by Respondent on February 13, 2012 and all previous answers are withdrawn.

3) **WAIVER.**

All parties waive the following: (a) filing of answer; (b) hearing; (c) administrative law judge's decisions; (d) the filing of exceptions and briefs; (e) oral argument before the Board; (f) the making of findings of fact or conclusions of law by the Board; and (g) all other proceedings to which the parties may be entitled under the Act or the Board's Rules and Regulations.

4) **ADMISSION.**

Respondent admits the allegations contained in paragraphs 4 through 10 of the Order Revoking Settlement, Consolidating Cases, Consolidated Complaint and Notice of Hearing.

5) **THE RECORD.**

The entire record in this matter consists of the following documents: this stipulation; the charges; amended charges; and the above-referenced Order Revoking Settlement, Consolidating Cases, Consolidated Complaint and Notice of Hearing. Copies of the charges, amended charge,

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and Order Revoking Settlement, Consolidating Cases, Consolidated Complaint and Notice of Hearing, Settlement and Notice are attached as Exhibits 1 through 5.

Copies of the original charges and the Affidavits of Service are attached as Exhibits 1 through 3A. The Order Consolidating Cases, Consolidated Complaint and Notice of Hearing and the affidavit of service are attached as Exhibit 4 and 4A. The Settlement and Notice, approved on July 28, 2011 are attached as part of Exhibit 4.

6) **ENTIRE AGREEMENT.**

This stipulation constitutes the entire agreement between the parties, and there is no agreement of any kind, verbal or otherwise, that alters or adds to it. It is understood that the signing of this stipulation by Respondent does not constitute an admission that it has violated the Act.

7) **SCOPE OF THE STIPULATION AND RESERVATION OF EVIDENCE.**

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

8) **EFFECTIVE DATE.**

OK *[Signature]*
3/30/2012

This stipulation is subject to the approval of the Board, and it does not become effective until the Board has approved it. The Acting General Counsel will file with the Board this stipulation and the documents constituting the record as described above. Once the Board has approved the stipulation, Respondent will immediately comply with the provisions of the order as set forth below.

V. ORDER

Based upon this stipulation and the record as described above, and without any further notice of proceedings, the Board may immediately enter an order providing as follows:

Respondent, Oldcastle BuildingEnvelope, its officers, agents, successors and assigns, shall:

(a) Cease and desist from:

(1) Promulgating and maintaining an overly broad rule that unlawfully limits employees' access to Respondent's property; and

(2) Promulgating and maintaining an overly broad rule that unlawfully limits employees' distribution of literature on Respondent's property.

(b) Take the following affirmative action to effectuate the policies of the Act:

(1) Read the notice to the employees at its Terrell, Texas facility during worktime; and

(2) Rescind the unlawful access and distribution rules and notify employees at its Terrell, Texas facility in writing that they have done so.

(c) Within 14 days of service by the Region, post at its Terrell, Texas facility, copies of the attached notice marked "Appendix A." Copies of the notice, on forms provided by Region 16, after being signed by Respondent's authorized representative, shall be posted by Respondent immediately upon receipt and maintained by Respondent for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Respondent will take reasonable steps to ensure that said notice is not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, Respondent has gone out of business or closed the facility

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involved in these proceedings, Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by Respondent at any time since April 20, 2011.

- (d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that Respondent has taken to comply.

VI. ENFORCEMENT OF ORDER

The United States Court of Appeals for any appropriate circuit may, on application of the Board, enter its judgment enforcing the Order of the Board in the form set forth above. Respondent waives all defenses to the entry of judgment, including compliance with the order of the Board, and its right to receive notice of the filing of an application for the entry of the judgment, provided that the judgment is in the words set forth above. However, Respondent shall be required to comply with the affirmative provisions of the Board's Order after the entry of the judgment only to the extent that it has not already done so.

**Oldcastle BuildingEnvelope, Inc.,
Respondent**

By: 

Title Attorney

Date: 03/30/2012

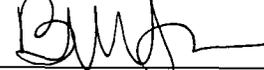
**USW International,
Charging Party**

By: _____

Title

Date: _____

Approval recommended:

By: 

Becky Mata, Field Attorney
NLRB, Region 16
819 Taylor Street, Room 8A24
Fort Worth, TX 76102

Date: 3/30/2012

Approved:



Martha Kirard, Regional Director
National Labor Relations Board,
Region 16

Date:

5/11/12

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**Oldcastle BuildingEnvelope, Inc.,
Respondent**

By: _____

Title

Date: _____

**USW International,
Charging Party**

By: _____

Title *USW Associate General Counsel*

Date: *3/29/12*

Approval recommended:

By: *Blm* _____

Becky Mata, Field Attorney
NLRB, Region 16
819 Taylor Street, Room 8A24
Fort Worth, TX 76102

Date: *3/30/2012*

Approved:

M



Martha Kinard, Regional Director
National Labor Relations Board,
Region 16

Date: 5/11/12

