



UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD
1099 14th STREET NW
WASHINGTON DC 20570

March 11, 2013

Re: Michels Corporation
Case 30-CA-081206

ORDER

The Regional Director's request to publish the Board's December 19, 2012 Order¹ in the above case is denied. By direction of the Board:

/s/ Gary Shinnors
Acting Executive Secretary

¹ Respondent Michels Corporation asserts that the Board lacked a quorum at the time it issued its Order because the President's recess appointments are constitutionally invalid, and that therefore the Order is void. The Board rejects this assertion. The Board recognizes that the United States Court of Appeals for the District of Columbia Circuit has found that the President's recess appointments were not valid. See *Noel Canning v. NLRB*, ___ F.3d ___ (D.C. Cir. 2013). However, as the court itself acknowledged, its decision is in conflict with at least three other courts of appeals. See *Evans v. Stephens*, 387 F.3d 1220 (11th Cir. 2004), cert. denied, 544 U.S. 942 (2005); *United States v. Woodley*, 751 F.2d 1008 (9th Cir. 1985); *United States v. Allocco*, 305 F.2d 704 (2d Cir. 1962). This question remains in litigation, and until such time as it is ultimately resolved, the Board is charged to fulfill its responsibilities under the Act.