

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

**THE HEIL CO., INC.  
d/b/a HEIL ENVIRONMENTAL**

**and**

**Cases 10-CA-114054  
10-CA-114919  
10-CA-116293**

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

**ORDER<sup>1</sup>**

The General Counsel's Request for Special Permission to Appeal Administrative Law Judge William N. Cates' ruling approving a unilateral Settlement by Consent Order is denied.<sup>2</sup> Although we have grave concerns about approval of a settlement agreement over the objections of the General Counsel and Charging Party, in this case we note that a recent non-Board settlement entered into by the Respondent and the Charging Party which no party seeks to set aside and a 30-year old unrelated unfair labor practice case are insufficient bases for concluding that the Respondent has a history of violations of the Act. We find that the Settlement by Consent Order substantially remedies the violations alleged in the consolidated complaint.<sup>3</sup> See

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<sup>1</sup> The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>2</sup> As noted by Judge Cates, the resolution of an unfair labor practice by a unilateral agreement proffered by a respondent and approved by a judge is in the nature of a consent order, and not a true "settlement" between parties to the dispute. See *Electrical Workers IUE Local 201 (General Electric Co.)*, 188 NLRB 855, 857 (1971). When evaluating proposed consent orders, the Board has applied the factors set forth in *Independent Stave Co.*, 287 NLRB 740 (1987). See, e.g., *Food Lion, Inc.*, 304 NLRB 602, 602 fn. 4 (1991); *Copper State Rubber*, 301 NLRB 138, 138 (1991).

<sup>3</sup> Chairman Pearce and Member Schiffer believe that Board Settlement Agreements and Consent Orders settling complaint allegations that include the default language referenced in this case best conserve Board resources, prevent duplicative expenses

*Independent Stave Co.*, 287 NLRB 740, 741 (1987).

Dated, Washington, D.C., June 20, 2014

MARK GASTON PEARCE,	CHAIRMAN
HARRY I. JOHNSON, III,	MEMBER
NANCY SCHIFFER,	MEMBER

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and delay, and ensure that a charged party/respondent will comply with the provisions of the settlement agreement.

In the circumstances of this case, Member Johnson does not share the “grave concerns” expressed by his colleagues about approving the unilateral settlement agreements or consent decrees over the objections of the General Counsel and a charging party. He also finds no need to comment generally about the need for inclusion of default language in such settlement agreements and consent orders.