

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

In the Matter of

BLSI, LLC

and

Case 9-CA-46091

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 18, AFL-CIO

MOTION FOR DEFAULT JUDGMENT

NOW COMES THE ACTING GENERAL COUNSEL, by the undersigned Counsel for the Acting General Counsel, and moves that:

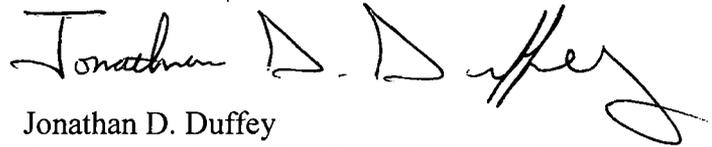
1. In order to effectuate the purposes of the National Labor Relations Act (the Act) and to avoid unnecessary costs or delay, the National Labor Relations Board (the Board) should exercise its power under Section 102.50 of the Board's Rules and Regulations, Series 8, as amended (the Board's Rules and Regulations) and transfer this proceeding to the Board.

2. Pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, Series 8, as amended, all allegations of the complaint in this matter be deemed to be admitted to be true, and be so found by the Board for failure of BLSI, Inc., herein called Respondent, to file an answer to the complaint. (A true copy of the charge and the complaint, with proofs of service, are attached hereto as Exhibits A and B, respectively.)

3. A decision issue, including findings of fact and conclusions of law, providing for a remedial order as requested in the complaint, in accordance with paragraph 2 above for the reasons set forth in the supporting memorandum filed herewith.

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

Respectfully submitted,

A handwritten signature in black ink that reads "Jonathan D. Duffey". The signature is written in a cursive style with a large, sweeping flourish at the end.

Jonathan D. Duffey
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: Exhibits A and B

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case 9-CA-46091

Date Filed NOV 5, 2010

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer BLSI LLC		b. Tel. No. 937-275-5288
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 1980 Hogue Ave Dayton, Ohio 45414	e. Employer Representative Thomas W. Kendo, Jr., Esq. 7925 Paragon Road Dayton, Ohio 45459 937-433-4090	g. e-Mail
i. Type of Establishment (factory, mine, wholesaler, etc.) Construction	j. Identify principal product or service Excavating Services	
h. Number of workers employed 5		

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

During the six month period immediately preceding the filing of this charge, employer has unlawfully refused to bargain collectively with the duly authorized bargaining representative of his employees.

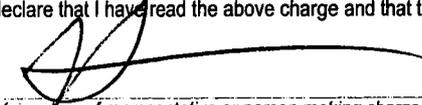
3. Full name of party filing charge (if labor organization, give full name, including local name and number)
International Union of Operating Engineers, Local 18

4a. Address (Street and number, city, state, and ZIP code) 3515 Prospect Ave. Cleveland, Ohio 44115	4b. Tel. No. 216-432-3138
	4c. Cell No.
	4d. Fax No.
	4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
International Union of Operating Engineers AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By  Timothy R. Fadel
(signature of representative or person making charge) (Print/type name and title or office, if any)

Tel. No. 216-781-7777
Office, if any, Cell No. 216-308-1348
Fax No. 216-781-0621
e-Mail tfadel@wflaw.com

Address 1340 Sumner Court, Cleveland, Ohio 44115 11/03/10 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

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

<p>BLSI LLC</p> <p>and</p> <p>International Union of Operating Engineers, Local 18</p>	<p>Case 9-CA-46091</p>
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Date of Mailing November 8, 2010

AFFIDAVIT OF SERVICE OF CHARGE

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

<p>Mr. Thomas W. Kendo, Jr. Attorney at Law BLSI LLC 1980 Hogue Avenue Dayton, OH 45414</p>	<p>***** National Labor Relations Board Washington, D.C. 20570</p>
<p>Subscribed and sworn to before me this <u>8th</u> day of <u>November</u>, 2010</p>	<p>Designated Agent <i>Jawa Smith</i> NATIONAL LABOR RELATIONS BOARD</p>

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

In the Matter of

BLSI, LLC

and

Case 9-CA-46091

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 18, AFL-CIO

COMPLAINT
AND
NOTICE OF HEARING

International Union of Operating Engineers, Local 18, AFL-CIO, herein called the Union, has charged that BLSi, 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. The charge was filed by the Union on November 5, 2010, and a copy was served by regular mail on Respondent on November 8, 2010.
2. (a) At all material times, Respondent, a limited liability company, has been engaged in ground maintenance and site preparation for buildings, building pads, parking lots and gravel installs.

(b) During the past 12 months, Respondent, in conducting its operations described above in paragraph 2(a), purchased and received at its Dayton, Ohio location goods valued in excess of \$50,000 directly from 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.

Rodney "Rusty" Trimbach - Supervisor
James "Mark Gordon" - Supervisor

5. The following employees of Respondent, herein called the Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time heavy equipment operators employed by the [Respondent], but excluding all laborers, landscape employees, office clerical employees, professional employees, guards and supervisors as defined in the Act.

6. On August 19, 2010, the Union was certified as the exclusive collective-bargaining representative of the Unit.

7. At all material times since August 19, 2010, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

8. About August 24, 2010, the Union, in writing, requested that Respondent bargain collectively with it as the exclusive collective-bargaining representative of the Unit.

9. Since about August 24, 2010, Respondent has failed and refused to bargain with the Union as the exclusive collective-bargaining representative of the Unit.

10. By the conduct described above in paragraph 9, Respondent has been failing and refusing to bargain collectively with the exclusive bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

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

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraphs 9 and 10, the Acting General Counsel seeks an Order requiring Respondent to bargain in good faith with the Union, on request, for the period required by *Mar-Jac Poultry*, 136 NLRB 785 (1962) as the exclusive collective-bargaining representative of the Unit. The Acting General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices as alleged.

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 7, 2011**, or postmarked on or before **February 4, 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.

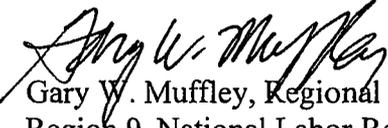
Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant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

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **March 10, 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 24th 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

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

<p>In the Matter of</p> <p>BLSI, LLC</p> <p>and</p> <p>INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 18, AFL-CIO</p>	<p>Case 9-CA-46091</p>
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Date of Mailing January 24, 2011

AFFIDAVIT OF SERVICE OF COMPLAINT AND NOTICE OF HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by certified mail upon the following persons, addressed to them at the following addresses:

<p>BLSI LLC 1980 Hogue Avenue Dayton, OH 45414</p>	<p><u>BY REGULAR MAIL:</u></p> <p>International Union of Operating Engineers, Local 18, AFL-CIO 3515 Prospect Avenue Cleveland, OH 44115</p> <p>Mr. Timothy R. Fadel The Brownell Building 1340 Sumner Court Cleveland, OH 44115</p> <p>***** National Labor Relations Board Washington, D.C. 20570</p>
<p>Subscribed and sworn to before me this ____ day of _____,</p>	<p>Designated Agent</p> <p>NATIONAL LABOR RELATIONS BOARD</p>