

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

In the Matter between)	
)	
KERRY INC.,)	
)	
Respondent,)	
)	
And)	Case Nos. GR-7-CA-52965 &
)	GR-7-CA-53192
LOCAL 70, BAKERY, CONFECTIONERY,)	
TOBACCO WORKERS AND GRAIN)	
MILLERS INTERNATIONAL UNION,)	
AFL-CIO,)	
)	
Charging Union.)	

**RESPONDENT'S EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE'S DECISION AND ORDER**

NOW COMES the Respondent, Kerry Inc., by and through its attorneys, Laner, Muchin, Dombrow, Becker, Levin and Tominberg, Ltd., pursuant to the Board's rules and regulations, and excepts to the Administrative Law Judge's Decision and Order ("DO"), in the above-captioned case, in the following particulars:

1. To the finding that the Respondent violated Sections 8(a)(1) and (5) of the Act by failing to negotiate a change in the application and payment of shift differential pay that was governed by the collective bargaining agreement. (DO 8, 19, 41, 51)
2. To the finding that the Respondent violated Section 8(d) of the Act by changing the application and payment of shift premiums. (DO 8, 19, 42-43, 51)
3. To the following specific findings:
 - a. To the ALJ's finding that the Respondent's Answer to Complaint admitted that it did not pay shift differentials to "some" employees in violation of the collective bargaining agreement. (DO 38)

- b. To the ALJ's finding that Bernard Kowalski did not receive shift differential pay. (DO 38)
- c. To the ALJ's finding that any other employees did not receive shift differential pay. (DO 42)
- d. To the ALJ's finding that Kowalski's testimony should be credited instead of Milburn's testimony with regard to her testimony about shift differential pay, including that the Company paid every employee a shift differential because their shifts necessarily overlapped with hours that were either part of the second or third shift. (DO 38)

DATED: November 22, 2011

Respectfully submitted,

KERRY INC.

By: 
One of Respondent's Attorneys

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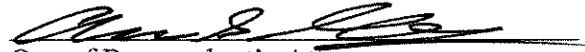
STATEMENT OF SERVICE

On November 22, 2011, the undersigned, an attorney, filed with the National Labor Relations Board, Office of the Executive Secretary, via the Board's electronic filing system, an electronic copy of the foregoing **Respondent's Exceptions to the Administrative Law Judge's Decision and Order**, and served copies of same upon the parties below:

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