



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

October 24, 2012

[REDACTED]

Re: Leake and Watts Services Inc.
Case 02-CA-081482

Dear [REDACTED]:

Your appeal from the Acting Regional Director's partial refusal to issue complaint has been carefully considered. The appeal raises no issue of fact or law not previously considered by the Regional Office in making its decision.

Under the Act, an employer will be found to have discriminated against an employee if the evidence establishes that the employer took an adverse employment action against because of their protected activities. See *Wright Line*, 251 NLRB 1083 (1980), enf'd 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982). However, if the employer can show it would have taken the same adverse action against them regardless of their protected activities, the employer will not be found to have violated the Act. *Id.* Here, the probative evidence from the Regional Office's investigation disclosed that the Employer would have taken the same action even in the absence of the employee's protected activities. Accordingly, further proceedings on this portion of the charge are unwarranted.

Sincerely,

Lafe E. Solomon
Acting General Counsel

By:

A handwritten signature in cursive script that reads "Yvonne T. Dixon".

Yvonne T. Dixon, Director
Office of Appeals

cc: KAREN FERNBACH
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
26 FEDERAL PLZ RM 3614
NEW YORK, NY 10278-0004


LEAKE & WATTS SERVICE, INC.
463 HAWTHORNE AVE
YONKERS, NY 10705-3441


JACKSON LEWIS LLP
1 NORTH BROADWAY 15TH FL
WHITE PLAINS, NY 10601

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