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April 9, 2015

**VIA E-FILE**

Gary Shinnars, Executive Secretary  
National Labor Relations Board  
1099 14<sup>th</sup> Street, N.W.  
Washington, DC 20570

Re: Benjamin H. Realty Corporation and  
Residential Construction and General  
Service Workers, Laborers Local 55  
Cases 22-CA-110689 and 22-RC-087792

Dear Mr. Shinnars:

As your file should reflect, this office represents Benjamin H. Realty Corp. with regard to the above-referenced matter. Please accept this letter as the Reply of my client to the Regional Attorney's correspondence to you of April 3, 2015.

I am not exactly sure what the title of this correspondence is, as my last communication to your office was a Reply to the Opposition to the Employer's Motion to reopen this case. Therefore, if the April 3, 2015 letter from the Regional Attorney is an Opposition to my Reply to their Opposition to my Motion, than this letter is, therefore, my Reply to the General Counsel's Opposition to the Employer's Reply to the General Counsel's Opposition to the Employer's Motion.

If the above title sounds ridiculous, then that is exactly what Counsel for the General Counsel has turned this entire Briefing Schedule into. The Regional Attorney for Region 22 believes that they have an unfettered right to continue to file oppositions to the replies that are filed by my client. This, quite simply, is an abuse of the briefing mandates and requirements as set forth by your office pursuant to the Board's November 3, 2014 Notice to Show Cause. Therefore, once again, the employer requests that both your office and Board reject the Regional Attorney's April 3, 2015 letter as not provided for in the briefing schedule and time-barred.

To the extent I need to once again respond to the merits of the Regional Attorney's assertions, I again put forth the following:

The supervisory status of Pastor Perea was acknowledged by counsel for the Union in the underlying hearing in this matter held in December of 2012. The argument advanced by the Union was that Mr. Perea was a supervisor, but subsequently lost his supervisory status after Moshe Weiss was hired by the Employer at some point in March or April, 2012. However, the subsequent pleadings of Mr. Perea in the Superior Court of New Jersey state in no uncertain terms that this demotion did not occur until sometime after the election in this case, to wit, January 2013. The statement of case law as to a "specific title" is a red herring by the General Counsel, in that it is already stipulated in the Region 22 proceedings that Mr. Perea had the indicia of a Section 2(11) supervisor at some point in 2012. By his subsequent

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admission/statement against interest that was proffered in his civil litigation, Perea is specifically acknowledging that he maintained this statutory definition up through January of 2013.

In fact, a reading of the documentation attached to the Employer's Motion specifically shows that Perea's Civil Attorney was made aware of the discrepancy as it relates to the date of the demotion months prior to the filing of the Civil Action. Thus, Mr. Perea cannot claim he was unaware of this discrepancy, and the civil lawsuit corroborates in no uncertain terms that he maintained that Section 2(11) supervisory status up through and including January 2013, well past the date of the election in this case, which occurred in November 2012.

Therefore, the case law cited by the counsel for General Counsel is inapplicable based on this prior acknowledgement of Section 2(11) supervisory status during the hearing in this matter.

Finally, it is requested that your office intervene to make sure that no further responses/objections are filed by counsel for General Counsel as it relates to this matter.

Thank you for your continuing cooperation in this regard. I remain,

Very truly yours,

**HOROWITZ LAW GROUP, LLC**



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cc: Curtiss T. Jameson, Esq. (via email)  
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