



Littler Mendelson, PC  
900 Third Avenue  
New York, NY 10022.3298

May 22, 2015

Theo E.M. Gould  
212.497.8489 direct  
212.583.9600 main  
646.417.7611 fax  
tgould@littler.com

**VIA EMAIL AND E-FILE**

Mr. Gary Shinnars  
Executive Secretary  
National Labor Relations Board  
1099 14th Street, N.W.  
Washington, D.C. 20570

Re: **Brooks Brothers, 2-UC-62745**

Dear Mr. Shinnars:

We write on behalf of Brooks Brothers in response to Thomas Murray's ongoing series of letters to you regarding case 2-UC-62745. As background, Brooks Brothers filed a unit clarification petition in August 2011. Over a three-year period, Region 2 held at least 15 hearing days with more than 1,500 pages of record testimony. Mr. Murray, on behalf of Local 340 and 25 of the NYNJ Joint Regional Board ("Union"), issued multiple rolling subpoenas, which resulted in the production of thousands of pages of documents and email production. Whenever the subpoenas were limited by the Hearing Officer, Mr. Murray made special appeals to the Regional Director. In each case, the Regional Director carefully considered the situation and ruled – sometimes in the Union's favor, sometimes upholding the Hearing Officer's rulings. And ultimately, despite Mr. Murray's every attempt to delay adjudication of the UC petition, on December 18, 2014, Regional Director Karen Fernbach issued a detailed opinion setting forth why the Union did not represent the employees at one of Brooks Brothers' newly opened retail stores.

While we had tried to refrain from responding to Mr. Murray's letters previously, we are compelled to explain that Mr. Murray's letters to the Executive Secretary are a continuation of the same behavior he exhibited during the UC hearing process. His threats to sue the NLRB are unfounded. His desire to treat witnesses in a unit clarification as hostile witnesses – a request that was rejected numerous times by the Region because a UC Petition is a non-adversarial proceeding – remains baseless. His wish that sanctions be levied against Brooks Brothers is unjustifiable. His citation to *Ozark v. NLRB*, 779 F.3d 576, 585 (D.C. Cir. 2015) is inapplicable.<sup>1</sup>

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<sup>1</sup> *Ozark* deals with a fact specific situation where the NLRB refused to enforce a subpoena on confidentiality grounds. In this case, Mr. Murray is taking issue with the Region's refusal to issue spoliation sanctions after production of existing documents were made, a reasonable search was conducted, and an inquest into Brooks Brothers' document preservation methods was conducted. The Region, after special appeal, concluded that Brooks Brothers had acted reasonably and that spending an exorbitant amount of money on an expert to confirm the same was unduly burdensome as balanced by the alternative, and would cause an unjustifiable further delay in the UC hearing.

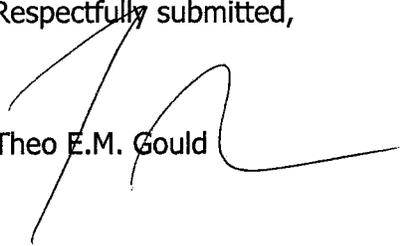
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Otherwise, Brooks Brothers respectfully refers to its opposition to the Union's request for review which sets forth why the Union's application should be rejected.

Thank you in advance for your consideration of this letter in your review of this situation.

Respectfully submitted,

Theo E.M. Gould

A handwritten signature in black ink, appearing to be 'Theo E.M. Gould', written over the printed name. The signature is stylized with a large, sweeping initial 'T' and 'G'.