

**United States Government
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570
*www.nlr.gov***

HAND-DELIVERED

Date: November 18, 2015

To: The National Labor Relations Board

Re: 34-CA-065746
34-CA-078077
34-CA-079296

Attached please find a Notice of Ratification regarding the above-cited case and the Affidavit of Service establishing that all parties were served with the Notice and this letter. I request that the Notice of Ratification be placed in the case record.

Regards,

/s/ Richard F. Griffin, Jr.

General Counsel

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

BURNDY, LLC

and

**Cases 34-CA-065746
34-CA-079296**

**GLASS MOLDERS POTTERY PLASTICS &
ALLIED WORKERS LOCAL 39B**

BURNDY, LLC

and

Case 34-CA-078077

IUE-CWA, LOCAL 485

NOTICE OF RATIFICATION

The prosecution of this case commenced under the authority of Acting General Counsel Lafe E. Solomon during the period after his nomination on January 5, 2011, while his nomination was pending with the Senate, and before my confirmation on November 4, 2013.

The United States Court of Appeals for District of Columbia Circuit recently held that Acting General Counsel Solomon's authority under the Federal Vacancies Reform Act (FVRA), 5 U.S.C. §§ 3345 et seq., ceased on January 5, 2011, when the President nominated Mr. Solomon for the position of General Counsel. *SW General, Inc. v. NLRB*, __ F.3d __, 2015 WL 4666487, (D.C. Cir., Aug. 7, 2015). The Court found that complaints issued while Mr. Solomon's nomination was pending were unauthorized and that it was uncertain whether a lawfully-serving General Counsel or Acting General Counsel would have exercised discretion to prosecute the cases. *Id.* at *10.

I was confirmed as General Counsel on November 4, 2013. After appropriate review and consultation with my staff, I have decided that the issuance of the complaint in this case and its continued prosecution are a proper exercise of the General Counsel's broad and unreviewable discretion under Section 3(d) of the Act.

My action does not reflect an agreement with the appellate court ruling in *SW General*. Rather, my decision is a practical response aimed at facilitating the timely resolution of the charges that I have found to be meritorious while the issues raised by *SW General* are being resolved. Congress provided the option of ratification by expressly exempting "the General

Counsel of the National Labor Relations Board” from the FVRA provisions that would otherwise preclude the ratification of certain actions of other persons found to have served in violation of the FVRA. Id. at *9 (citing 5 U.S.C. § 3348(e)(1)).

For the foregoing reasons, I hereby ratify the issuance and continued prosecution of the complaint.

Date: November 18, 2015

/s/ Richard F. Griffin, Jr.
Richard F. Griffin, Jr.
General Counsel

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 34**

BURNDY, LLC

and

**Cases 34-CA-065746
34-CA-079296**

**GLASS MOLDERS POTTERY PLASTICS &
ALLIED WORKERS LOCAL 39B**

BURNDY, LLC

and

Case 34-CA-078077

IUE-CWA, LOCAL 485

**AFFIDAVIT OF SERVICE OF: Notice of Ratification of Complaint and Prosecution of
Complaint and Letter to the Board regarding this Ratification.**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on November 18, 2015 I served the above-entitled document(s) by regular mail, as noted below, upon the following persons, addressed to them at the following addresses:

Mary Rovello, HR Manager
Burndy, LLC
185 Grassy Plain St
Bethel, CT 06801

Robert Sears
IUE-CWA Local 485
373 Prospect St
Naugatuck, CT 06770-3118

Ed Marczyszak, Plant Manager
Burndy, LLC
185 Grassy Plain St
Bethel, CT 06801

Michael J. Soltis, Esq.
Jackson Lewis LLP
1010 Washington Blvd., 7th Floor
Stamford, CT 06901

Thomas Norton, President
Glass Molders Pottery Plastics & Allied
Workers, Local 39B
186 Eaton St
Oakville, CT 06779

David I. Cann, Esq.
Kennedy, Jennik & Murray, PC
113 University Pl. 7th Floor
New York, NY 10003-4527

November 18, 2015

Date

Lily Nguyen
Designated Agent of NLRB

Name

/s/ Lily Nguyen

Signature