

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

RICCELLI ENTERPRISES, INC.

and

Case 03-CA-130137

**INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 158-C**

**MOTION TO REMAND CASE TO THE REGIONAL DIRECTOR FOR APPROVAL
OF NON-BOARD SETTLEMENT AGREEMENT**

The undersigned, pursuant to Section 102.47 of the Board's Rules and Regulations, as amended, hereby files this motion requesting that the Board remand the above-captioned case to the Regional Director of Region Three for the purpose of approving the parties' non-Board settlement agreement.

1. On February 24, 2015, the Regional Director of Region Three issued a Complaint and Notice of Hearing in the above matter. The Complaint, as amended at the hearing, alleges that Riccelli Enterprises, Inc. (Respondent) was the legal successor to the Northern Group of Companies (Northern). The Complaint further alleges that Respondent violated Section 8(a)(1) of the National Labor Relations Act (Act) by making unlawful statements to employees, violated Section 8(a)(1) and (3) of the Act by constructively discharging employee Monroe Osborne, and violated Section 8(a)(1), (3) and (4) of the Act by discharging employee Scott Reynolds. The Complaint further alleges that Respondent violated Section 8(a)(1) and (5) of the Act by failing and refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit, altering employee healthcare benefits, refusing to bargain with the Union over the effects of a merger, and refusing to provide the Union with requested

information. Lastly, the Complaint alleges that Respondent violated Section 8(a)(1), (3) and (5) of the Act by restructuring its workforce.

2. Administrative Law Judge Robert A. Ringler (ALJ Ringler) heard this matter from April 20 to 23, 2015.

3. On September 21, 2015, the ALJ Ringler issued his Decision and recommended Order, finding that Respondent: (1) was the legal successor to Northern; (2) violated Section 8(a)(1) of the Act by making certain unlawful statements to employees; (3) violated Section 8(a)(1) and (3) of the Act by constructively discharging employee Osborne; (4) violated Section 8(a)(1) and (3) of the Act by refusing to allow employee Reynolds to rescind his resignation; and (5) violated Section 8(a)(1) and (5) of the Act by failing and refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit following its May 20, 2014 demand, unilaterally altering employee healthcare benefits, unilaterally restructuring its workforce, and refusing to provide the Union with requested information.

4. The parties have reached a non-Board settlement in the above matter. Specifically, Respondent has agreed to recognize the Union as the exclusive collective-bargaining representative of the Unit. Further, Respondent and the Union have agreed to an initial collective-bargaining agreement (CBA). The issues regarding employee health insurance and workforce restructuring have been resolved to the Union's satisfaction by virtue of the CBA and the terms of the non-Board settlement agreement. Regarding health insurance, the parties have agreed to allow employees to use the health insurance utilized by Respondent's non-Union employees. Regarding workforce restructuring, Respondent has agreed to transfer all affected employees to their preferred work locations. In addition, Respondent has agreed to make back-contributions, on behalf of Union members, to the Union's Central Pension Fund. Regarding the

termination of Osborne, Respondent has agreed to pay him \$1,382.40, which equates to approximately 90% of his backpay owed. Regarding the termination of Reynolds, Respondent has agreed to pay him \$16,744.40, which equates to approximately 90% of his backpay owed. Neither Osborne nor Reynolds desire reinstatement.

5. This settlement effectuates the purposes and policies of the Act in that it remedies the Complaint allegations consistent with the remedial provisions of Board orders in cases involving such violations. Moreover, it meets the requirements of Independent Stave Co., 287 NLRB 740 (1987). All parties have agreed to the settlement. Respondent has not breached previous settlement agreements resolving unfair labor practice disputes.

6. Based on the above, Counsel for the General Counsel respectfully requests that the Board remand the above-captioned case to the Regional Director of Region Three for the purpose of approving the adjusted withdrawal of the charge.

DATED at Buffalo, New York, this 27th day of January, 2016.

Respectfully submitted,

/s/ Jesse Feuerstein

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