



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 21  
888 S Figueroa St Fl 9  
Los Angeles, CA 90017-5449

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (213)894-5200  
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March 10, 2017

SHAUN SETAREH, ATTORNEY AT LAW  
SETAREH LAW GROUP  
9454 WILSHIRE BOULEVARD, SUITE 907  
BEVERLY HILLS, CA 90212-2911

Re: BRINDERSON CONSTRUCTORS, INC.  
Case 21-CA-180992  
BP AMERICA, INC.  
Case 21-CA-180993  
BP CORPORATION NORTH AMERICA,  
INC.  
Case 21-CA-180994

Dear Mr. Setareh:

We have carefully investigated and considered your charges that Brinderson Constructors, Inc., BP AMERICA, INC. and BP CORPORATION NORTH AMERICA, INC. (Employers) have violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have concluded that further proceedings are not warranted, and I am dismissing your charge for the following reasons:

Your charges allege that the named Employers made a mandatory arbitration agreement a necessary condition of employment, and that this agreement prohibited class actions in court. The investigation disclosed that the arbitration agreement alleged in the charge referred to a provision in Article IV-rest and meal periods of the collective-bargaining agreement between Brinderson Constructors, Inc. and the Union of Petroleum and Industrial Workers-United Steel Workers, Local 1945. The investigation further disclosed that in about [REDACTED] 2014, you filed a class action lawsuit against the Employers alleging wage-and-hour violations related to your employment at Brinderson Constructors, Inc. Thereafter, in [REDACTED] 2015, the Employers, who are named defendants in this lawsuit, filed a Petition to Compel Arbitration and to Stay Proceedings seeking to require you to submit your claims to arbitration based on this provision of the collective-bargaining agreement. The Motion to Compel did not assert that the collective-bargaining agreement provision required that arbitration be held on an individual basis. Ultimately the Petition to Compel Arbitration was granted. Based on these facts, it was determined that there was no violation of the Act because this provision in the collective-bargaining agreement is facially lawful, and it was not used to preclude class or collective action.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at [www.nlr.gov](http://www.nlr.gov), click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

**Appeal Due Date:** The appeal is due on **March 24, 2017**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than March 23, 2017. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before March 24, 2017**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202) 273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after March 24, 2017, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to

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keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/WILLIAM B. COWEN  
Regional Director

Enclosure

cc:

  
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WBC/cw