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January 29, 2018

**VIA ELECTRONIC FILING**

Gary Shinnars  
Executive Secretary  
National Labor Relations Board  
1015 Half Street SE  
Washington, D.C. 20570

**Re: Covanta Essex Co.**  
**Case No. 22-RD-199469**

Dear Mr. Shinnars:

This law firm represents the Employer, Covanta Essex Co., in the above-referenced matter. I am writing to oppose a further extension of time for the Union, Local 68 I.U.O.E., to submit an opposition to the Employer's Request for Review in this matter.

Pursuant to NLRB Rule 102.2(d)(1), a late-filed document may be filed, among other things, "only upon good cause shown based on excusable neglect and when no undue prejudice would result." In the instant matter, there is no showing of excusable neglect. The parties were previously afforded an extension of time within which to file an opposition to the Request for Review. By the December 21, 2017 letter of Associate Executive Secretary Leigh A. Reardon, the parties were provided an extension until January 5, 2018 to file an opposition.

The Union failed to do so, under either the original or previously extended deadlines. Indeed, the only basis upon which the instant application is made is the January 18, 2018 letter from Associate Executive Secretary Farah Z. Qureshi, rejecting an opposition that had been filed by the Board's General Counsel. A cursory review of the Union's proposed opposition indicates that it is a mere recaptioning of the opposition papers that had been drafted by the General Counsel and previously rejected by your office.

The Union provides no basis to conclude that it was unable, for any reason (let alone one constituting excusable neglect), to timely file an opposition, if even to timely join in the General Counsel's deficient opposition. Without a showing of excusable neglect, there is no basis upon which to grant the Union's application.

Further, pursuant to NLRB Rule 102.2(d)(2), as part of a motion to permit the filing of an untimely document, "The specific facts relied on to support the motion must be set forth in

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affidavit form and sworn to by individuals with personal knowledge of the facts.” No requisite affidavit was provided in support of the instant motion.

Lastly, pursuant to the “cc” line of the Union’s instant application as well as the Certificate of Service attached thereto, it appears the Union failed to serve the instant motion on the Petitioner, George Banci. The failure to do so provides an independent basis for the rejection of the Union’s opposition papers. NLRB Rule 102.5(i)(1).

For all of the foregoing reasons, the Employer respectfully requests that the Union’s request to file untimely opposition papers be denied and that the opposition papers not be submitted to the Board for consideration.

Very truly yours,

CLIFTON BUDD & DeMARIA, LLP

By: /s Scott M. Wich \_\_\_\_\_

Scott M. Wich

cc: Regional Director, Region 22 ([david.leach@nlrb.gov](mailto:david.leach@nlrb.gov); [saulo.santiago@nlrb.gov](mailto:saulo.santiago@nlrb.gov))  
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