

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Washington D.C.

RAYMOND INTERIOR SYSTEMS

and

Case 21-CA-37649

SOUTHERN CALIFORNIA PAINTERS
AND ALLIED TRADES DISTRICT
COUNCIL NO. 36, INTERNATIONAL
UNION OF PAINTERS AND ALLIED
TRADES, AFL-CIO

UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS OF
AMERICA, LOCAL UNION 1506

and

Case 21-CB-14259

SOUTHERN CALIFORNIA PAINTERS
AND ALLIED TRADES DISTRICT
COUNCIL NO. 36, INTERNATIONAL
UNION OF PAINTERS AND ALLIED
TRADES, AFL-CIO

and

SOUTHWEST REGIONAL COUNCIL OF
CARPENTERS, UNITED BROTHERHOOD
OF CARPENTERS AND JOINERS OF
AMERICA

(Party in Interest)

COUNSEL FOR THE ACTING GENERAL COUNSEL'S
OPPOSITION TO RESPONDENT RAYMOND INTERIOR SYSTEMS'
MOTION FOR RECONSIDERATION

Counsel for the Acting General Counsel (the General Counsel) files this Opposition to the Motion for Reconsideration (the Motion), filed on October 27, 2010, by Respondent Raymond Interior Systems (Raymond). Section 102.48(d)(1) of the Board's Rules states that "[a] party to a proceeding before the Board may, because of extraordinary circumstances, move for reconsideration, rehearing, or reopening of the record after the Board decision or order." The Motion should be denied because Raymond has failed to establish any extraordinary circumstances.

Raymond repeats the same arguments that it previously presented to the Administrative Law Judge (ALJ) and to the Board—that its September 12, 2006 confidential settlement agreement constituted an 8(f) recognition agreement with Respondent Carpenters in the bargaining unit comprised of drywall finishing employees previously represented by the Painters; and that any subsequent violations of the Act do not undermine the validity of that recognition. Contrary to Raymond's contentions, those arguments were fully considered and rejected by the ALJ and the Board. The ALJ thoroughly considered and rejected Raymond's claims that the confidential settlement agreement constituted a collective-bargaining agreement or a grant of 8(f) recognition. Raymond Interior Systems, 354 NLRB No. 85, JD slip op. at.19-22 (2009). The ALJ's rulings, findings, and conclusions were affirmed by the Board for the reasons stated in the reported decision, which was incorporated by reference into the decision Raymond Interior Systems, 355 NLRB No. 209 (September 30, 2010). Therefore, the Motion should be denied.

Raymond also argues that Board's Order prohibiting Raymond from recognizing Respondent Carpenters as the representative of its drywall finishing employees until it has been certified by the Board, is punitive. However, Raymond proffered no case authority to support this assertion. In McNulty Plastering, Inc., 344 NLRB No. 80, slip op. at 3 (2005), the Board prohibited a construction-industry employer that unlawfully recognized a union to refrain from recognizing that union until it was certified by the Board. Accordingly, Raymond's Motion should be denied because the Board's Order is proper and in accord with Board precedent.

Lastly, contrary to Raymond's claims, the Board's decision is in accord with its consistent practice in handling cases that have been remanded under New Process Steel, L.P. v. NLRB, 130 S.Ct. 2635 (2010). See County Waste of Ulster, LLC, 355 NLRB No. 193 (September 27, 2010).

Based on the aforementioned, the General Counsel respectfully submits that Raymond's Motion should be denied in its entirety.

Respectfully submitted,


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DATED at Los Angeles, California, this 8th day of November, 2010.

STATEMENT OF SERVICE

I hereby certify that a copy of **Counsel for the Acting General Counsel's Opposition to Respondent Raymond Interior Systems Inc.'s Motion for Reconsideration** in Cases 21-CA-37649 and 21-CB-14259 was submitted by E-filing to the Office of the Executive Secretary of the National Labor Relations Board on November 8, 2010. The following parties were served with a copy of the same document by electronic mail.

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Dated at Los Angeles, California, this 8th day of November, 2010.