



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

June 23, 2011

[REDACTED]
INTERNATIONAL UNION OF
OPERATING ENGINEERS, LOCAL 12,
AFL-CIO
150 EAST CORSON STREET
PASADENA, CA 91103

Re: Interstate Improvement, Inc.
Case 21-CA-039688

Interstate Improvement, Inc. d/b/a
Knish Corporation
Case 21-CA-39689

Dear [REDACTED]

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered.

The appeal is denied. The Regional investigation disclosed that on January 30, 2007, Knish Corporation signed a Short Form Collective Bargaining Agreement (SFA) with the Union for the work it was performing at the time in Las Vegas, Nevada. The SFA, Article II, provided that the Employer would be bound to the Master Agreement "in effect in the geographic area in which the work is performed." As such, the Employer was presented with the Master Agreement for Southern Nevada and other documents dealing with that agreement. The SFA at Article V also references the Master Agreement (not the SFA as stated on appeal) covering "each geographic area within the Union's jurisdiction," which would include Southern California only if the Master Agreement is read in the plural as asserted by the Union. When the Employer performed work within Southern California between November 2010 and February 2011, the Union contended that the Employer was bound to that area's Master Agreement.

A review of the ambiguous language in the SFA and the totality of the evidence surrounding its signing in January 2007, indicates that the General Counsel's burden of establishing by a

preponderance of the evidence that the Employer violated the Act could not be met. Accordingly, further proceedings are unwarranted.

Sincerely,

Lafe E. Solomon
Acting General Counsel

By _____
Yvonne T. Dixon, Director
Office of Appeals

cc: WILLIAM PATE
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
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