



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

August 2, 2012



Re: Pappas Company, LTD  
Case 13-CA-070644

Dear [REDACTED]:

Your appeal from the Regional Director's approval of a unilateral settlement agreement has been carefully considered. The appeal is denied substantially for the reasons in the Regional Director's letter of April 26, 2012. Contrary to your contentions on appeal, it was determined that the provisions of the settlement agreement adequately remedy the unfair labor practices found to be meritorious by the Region.

With respect to your contention regarding the removal of the *Gissel* bargaining order from the complaint, the documentary evidence failed to establish that as of November 21, 2011, the date pled in the complaint, the Union achieved majority status in an appropriate bargaining unit. The unit pled in the complaint was described as "All full-time and regular part-time drivers and operating engineers ..." Significantly, the documentary evidence indicated that at the time that the Union claimed majority status, that unit complement was between 31-32 employees. Therefore, it was determined that the Union's claim of majority status based on 8 authorization cards could not be sustained. Consequently, the *Gissel* bargaining order allegation was unsupported and merited being dropped from the complaint. Further, given the probative weight of the documentary evidence, a hearing on the matter would not have served to alter the Regional Director's findings.

With respect to your contention on appeal that the unit should only include employees that "operate heavy equipment, or drive the low boy and/or Pappas' dump-style trucks that hold construction material/debris," this is a narrower unit than that investigated from the onset of this matter and that which was alleged in the complaint. As such, it is not the appropriate unit under investigation in this case.

With respect to your contentions that the settlement does not comply with the General Counsel's memorandum 11-01 dealing with effective remedies in organizing campaigns, since

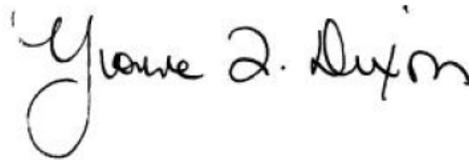
the settlement contains high levels of front pay for the discriminatees, as well as reinstatement of one discriminatee in a timely fashion, it was deemed that the settlement effectively remedies the alleged unfair labor practices in the case, and further, successfully fulfills the policy concerns outlined in the GC memo in question.

With respect to your objection to the non-admissions clause, the inclusion of a non-admissions clause in the informal settlement agreement does not constitute a basis for setting aside the settlement. *United Mine Workers of America (James Brothers Coal Co.)*, 191 NLRB 209 (1971). In this regard, *29 C.F.R. Section 101.9 (b)(2)* expressly permits a Regional Director to accept an informal settlement agreement after issuance of complaint, before the hearing. Accordingly, further proceedings are unwarranted.

Sincerely,

Lafe E. Solomon  
Acting General Counsel

By:

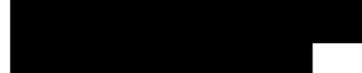


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Yvonne T. Dixon, Director  
Office of Appeals

cc: PETER SUNG OHR  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS  
BOARD  
209 S LA SALLE ST STE 900  
CHICAGO, IL 60604-1443

  
PAPPAS COMPANY, LTD  
2100 JOHNS CT  
GLENVIEW, IL 60025-1655

  
LANER MUCHIN DOMBROW  
BECKER LEVIN AND TOMINBERG, LTD  
515 N STATE ST STE 2800  
CHICAGO, IL 60654-4854

INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 150, AFL-CIO  
6200 JOLIET RD  
COUNTRYSIDE, IL 60525-3957

mjb