

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

In the Matter of

C & G DISTRIBUTING COMPANY, INC.

and

Case 9-CA-078875

GENERAL TRUCK DRIVERS, WAREHOUSEMEN, HELPERS,
SALES AND SERVICE AND CASINO EMPLOYEES,
TEAMSTERS LOCAL UNION NO. 957, AFFILIATED WITH
THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

**ACTING GENERAL COUNSEL'S REPLY TO RESPONDENT
C & G DISTRIBUTING COMPANY, INC.'S
ANSWERING BRIEF**

I. INTRODUCTION

This case is before the Board on Acting General Counsel's Exceptions to the Administrative Law Judge's Decision that Respondent did not violate Section 8(a)(1) and (5) of the Act when it ceased deducting and remitting unit employees' union dues to the Union upon expiration of the parties' collective-bargaining agreement. Contrary to the arguments raised in Respondent's Answering Brief, Counsel for the Acting General Counsel respectfully submits that the record evidence, legislative history and case law now establish that Respondent's conduct is violative of Section 8(a)(1) and (5) of the Act.

II. THE BOARD'S DECISION IN *WKYC-TV* CONTROLS

On December 12, 2012, the Board issued its decision in *WKYC-TV*, 359 NLRB No. 30 that deals directly with the issues presented in this matter. Given the Board's conclusions of law, no further argument is necessary in the instant case.

III. RESPONDENT'S DEFENSES THAT THE COMPLAINT IS *ULTRA VIRES* AND THE BOARD DOES NOT COMPRISE A QUORUM SHOULD BE STRICKEN

Section 101.11(b) of the Board's Rules and Regulations provides that whenever any party files exceptions to the administrative law judge's decision, any other party may file an answering brief

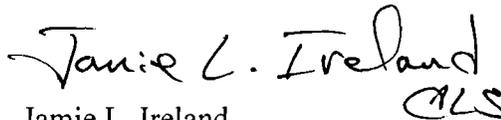
limited to questions raised in the exceptions and/or may file cross-exceptions relating to any portion of the administrative law judge's decision. Counsel for the Acting General Counsel did not address Respondent's argument that the complaint is *ultra vires* or the Board lacks a quorum in its Exceptions to the Administrative Law Judge's Decision and Respondent did not file exceptions, or cross-exceptions, to that portion of Judge Wedekind's decision. Therefore, pursuant to Section 101.11(b), Respondent is prohibited from raising these defenses in its Answering Brief and its arguments on this issue should be stricken.

IV. CONCLUSION

Accordingly, based on the foregoing, as well as Counsel for the Acting General Counsel's Exceptions to the Administrative Law Judge's Decision and the record as a whole, the Board should grant Counsel for the Acting General Counsel's Exceptions and find that Respondent violated Section 8(a)(1) and (5) of the Act.

Dated at Cincinnati, Ohio this 21st day of December, 2012.

Respectfully submitted,

Handwritten signature of Jamie L. Ireland in black ink, with the initials 'JLI' written below the signature.

Jamie L. Ireland
Counsel for the Acting General Counsel
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

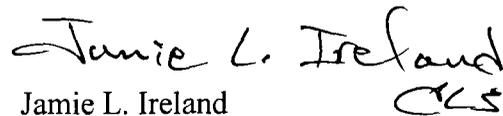
CERTIFICATE OF SERVICE

December 21, 2012

I hereby certify that I served the attached Counsel for the Acting General Counsel's Reply Brief on this date by electronic mail to the following at the addresses listed below:

Ronald L. Mason, Attorney
Aaron T. Tulencik, Attorney
Mason Law Firm Co., LPA
425 Metro Place North, Suite 620
Dublin, Ohio 43017
E-mail: rmason@maslawfirm.com
atulencik@maslawfirm.com

John R. Doll, Attorney
Doll, Jansen, Ford & Rakay
111 West First Street, Suite 1100
Dayton, Ohio 45402
E-mail: jdoll@djflawfirm.com



Jamie L. Ireland
Counsel for the Acting General Counsel
Region 9, National Labor Relations Board
Room 3003, John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271