



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 21
US Court House, Spring Street
312 N Spring Street, Suite 10150
Los Angeles, CA 90012

Agency Website: www.nlrb.gov
Telephone: (213)894-5200
Fax: (213)894-2778

November 30, 2018

(b) (6), (b) (7)(C)

Re: UNITE HERE LOCAL 11
(Millennium Biltmore)
Case 21-CB-224745

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that Unite Here Local 11 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union unlawfully failed to process your grievance, for arbitrary or discriminatory reasons or in bad faith. The investigation disclosed that your grievance, related to a written warning, and your suspension and discharge, has been processed by the Union. In the processing your grievance, the Union has met with you and the Employer, requested and received information from the Employer, and participated in a formal FMCS mediation session. The Union has informed you of the status of your grievance and that it is taking your grievance to arbitration. Finally, alleged comments by Union representatives that you find to be unprofessional do not establish bad faith in the processing of your grievance, and do not rise to the level of violations of the Act. Accordingly, further proceedings in this matter are not warranted.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlrb.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlrb.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel** at the **National Labor Relations**

Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **December 14, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than December 13, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before December 14, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202) 273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after December 14, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/WILLIAM B. COWEN
REGIONAL DIRECTOR

Enclosure

WBC/cw

UNITE HERE LOCAL 11
(Millennium Biltmore)
Case 21-CB-224745

- 3 -

November 30, 2018

cc: KIRILL PENTESHIN, GENERAL COUNSEL
UNITE HERE LOCAL 11
464 SOUTH LUCAS AVENUE, STE 201
LOS ANGELES, CA 90017-2074

MILLENNIUM BILTMORE
506 S. GRAND AVE
LOS ANGELES, CA 90071-2607

WBC/cw



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November 30, 2018

(b) (6), (b) (7)(C)

Re: NATIONAL POSTAL MAIL HANDLERS
UNION LOCAL 303
(United States Postal Service)
Case 21-CB-225285

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that National Postal Mail Handlers Union Local 303 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union failed and refused to fairly process your grievances, and refused to arbitrate your grievances regarding a notice of removal and a 30-day suspension issued to you, for arbitrary or discriminatory reasons or in bad faith. The investigation disclosed that the Union processed and investigated your first grievance according to its established practices, and ultimately reached a settlement with the USPS before going to arbitration, in which your notice of removal was reduced to a 30-day suspension. Although it appears that the Union did not inform you of the settlement until after the fact, the Board recognizes that unions have broad discretion to resolve grievances in the absence of arbitrary or discriminatory conduct. Thus, based on the evidence as a whole, there does not appear to be sufficient evidence of unlawful conduct by the Union in this regard. Additionally, the Union's failure to process your subsequent grievance over your dissatisfaction with the settlement of your first grievance does not appear to rise to the level of a violation of the Act, since you did not present any additional arguments or evidence that the Union did not consider in its resolution of your first grievance. Accordingly, further proceedings in this matter are not warranted.

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- 2) Enter the NLRB Case Number; and,
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November 30, 2018

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Very truly yours,

/s/William B. Cowen
Regional Director

Enclosure

cc: (See next page)

NATIONAL POSTAL MAIL HANDLERS - 3 -
UNION LOCAL 303
(United States Postal Service)
Case 21-CB-225285

November 30, 2018

cc: NATIONAL POSTAL MAIL HANDLERS
UNION LOCAL 303
11139 S WESTERN AVE
LOS ANGELES, CA 90047-4897

RODERICK D. EVES, DEPUTY MANAGING COUNSEL
UNITED STATES POSTAL SERVICE
(LAW DEPARTMENT - NLRB UNIT)
1720 MARKET ST., RM. 2400
ST. LOUIS, MO 63155-9948

UNITED STATES POSTAL SERVICE
5555 BANDINI BLVD
BELL, CA 90201

WBC/fb



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Fax: (213)894-2778

November 16, 2018

(b) (6), (b) (7)(C)

Re: AMALGAMATED TRANSIT UNION
LOCAL 1700
(Greyhound Lines)
Case 21-CB-225353

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that Amalgamated Transit Union, Local 1700 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

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November 16, 2018

delivery service on the due date, it will be rejected as untimely. If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

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Very truly yours,

/s/William B. Cowen
Regional Director

Enclosure

cc: GREYHOUD LINES
1716 E 7TH ST
LOS ANGELES, CA 90021-1202

AMALGAMATED TRANSIT UNION,
LOCAL 1700
PO BOX 95021
MISSION HILLS, CA 91345

WBC/fb



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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Fax: (213)894-2778

November 16, 2018

H. SANFORD RUDNICK, LABOR CONSULTANT
SANFORD H. RUDNICK JD & ASSOCIATES
1200 MT. DIABLO BOULEVARD, SUITE 105
WALNUT CREEK, CA 94596-4823

Re: TEAMSTERS LOCAL 396
(Madison Materials, Inc.)
Case 21-CB-225995

Dear Mr. Rudnick:

We have carefully investigated and considered your charge that TEAMSTERS LOCAL 396 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleged that the Union restrained and coerced the Madison Materials, Inc. (Employer) in the selection of their collective bargaining representative. Specifically, you alleged that, on about August 7, 2018 during a bargaining session, a Union representative told an Employer representative that bargaining would be easier if the Employer got “rid of” its labor consultant. Assuming the Union representative made this statement, there is no evidence the statement had, or reasonably could have had, any coercive effect on the Employer. The case you cite in support of this allegation, *Longshoreman Local 333*, 233 NLRB 387 (1977), is inapplicable as the facts presented in that case [union disciplined supervisor-member for exercising his supervisory duties] are markedly different than the facts alleged in the instant charge.

You also alleged that, on about August 28, 2018 shortly before a bargaining session, Union representatives asked to, and did, speak to an Employer representative outside the presence of the Employer’s labor consultant. Based on the evidence collected during the investigation, the Region determined that the Employer representative agreed to the Union representatives’ request and there was no evidence the Employer was threatened or coerced into agreeing to that request.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/William B. Cowen
Regional Director

Enclosure

cc: MADISON MATERIALS, INC.
1451 MANHATTAN AVE.
FULLERTON, CA 92831-5221

KIM WEBER, ATTORNEY AT LAW
PAUL L. MORE, ATTORNEY AT LAW
MCCRACKEN, STEMERMAN &
HOLSBERRY, LLP
595 MARKET STREET, SUITE 800
SAN FRANCISCO, CA 94105-2821

TEAMSTERS LOCAL 396
880 S OAK PARK RD, STE 200
COVINA, CA 91724-0604

WBC/fb



UNITED STATES GOVERNMENT
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US Court House, Spring Street
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Fax: (213)894-2778

November 19, 2018

(b) (6), (b) (7)(C)

Re: TEAMSTERS LOCAL 63
(UPS Ground Freight)
Case 21-CB-226064

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that TEAMSTERS UNION LOCAL 63 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union violated Section 8(b)(1)(A) of the Act by refusing to process your (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) 2018 grievances regarding your termination, for arbitrary or discriminatory reasons or in bad faith. You also contend that the Union violated the Act by failing to keep you informed regarding the status and disposition of your (b) (6), (b) (7)(C) 2018 grievance. Regarding your (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) grievances, those grievances were substantially similar to the grievance you filed in (b) (6), (b) (7)(C) 2018 seeking reinstatement from your (b) (6), (b) (7)(C) 2017 termination. As was the case with your (b) (6), (b) (7)(C) grievance, the Union determined that your (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) grievances lacked merit and that it would be unable to prevail. The Union also found the (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) grievances to be untimely filed.¹ The investigation revealed insufficient evidence to establish any unlawful motive with regard to the processing of your grievances. Regarding your (b) (6), (b) (7)(C) grievance, the investigation established that the Union communicated to you its decision to cease processing your grievance. Accordingly, further proceedings in this matter are not warranted.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlrb.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

¹ It is noted that no violation was found in Teamsters Local 63 (UPS Ground Freight), Case 21-CB-214432, which charge alleged that the Union unlawfully refused to process your (b) (6), (b) (7)(C) 2018 grievance.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **December 3, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than December 2, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

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Very truly yours,

/s/WILLIAM B. COWEN
Regional Director

Enclosure
cont'd (see next page)

TEAMSTERS UNION LOCAL 63
(UPS Ground Freight)
Case 21-CB-226064

- 3 -

November 19, 2018

cc: (b) (6), (b) (7)(C)
UNITED PARCEL SERVICE, INC.
55 GLENLAKE PKWY, NE BLDG 3, FL 4
ATLANTA, GA 30328-3498

UPS GROUND FREIGHT
2747 SOUTH VAIL AVE
COMMERCE, CA 90040-2611

DENNIS J. HAYES, ATTORNEY AT LAW
RAQUEL A. ORTEGA, ATTORNEY AT LAW
HAYES, ORTEGA & SANCHEZ, LLP
3625 RUFFIN ROAD, SUITE 300
SAN DIEGO, CA 92123

TEAMSTERS UNION LOCAL 63
379 WEST VALLEY BLVD
RIALTO, CA 92376-7792

WBC/mr



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 21
US Court House, Spring Street
312 N Spring Street, Suite 10150
Los Angeles, CA 90012

Agency Website: www.nlr.gov
Telephone: (213)894-5200
Fax: (213)894-2778

November 28, 2018

(b) (6), (b) (7)(C)

Re: TEAMSTERS LOCAL 166
(Anheuser Busch Sales Riverside)
Case 21-CB-226393

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that Teamsters Local 166 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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Very truly yours,

/s/WILLIAM B. COWEN
REGIONAL DIRECTOR

Enclosure

cc: MIKE PHARRIS, PRESIDENT
TEAMSTERS LOCAL 166
PO BOX 899
18597 BLOOMINGTON BOULEVARD
BLOOMINGTON, CA 92316-0899

cc: (See next page.)

cc: LAURENCE ZAKSON, ATTORNEY AT LAW
REICH, ADELL & CVITAN
3550 WILSHIRE BLVD, SUITE 2000
LOS ANGELES, CA 90010-2421

NATALIA BAUTISTA, ATTORNEY AT LAW
REICH, ADELL & CVITAN
3550 WILSHIRE BLVD, SUITE 2000
LOS ANGELES, CA 90010-2421

JOEL CONTRERAS, OPERATION MANAGER
ANHEUSER-BUSCH SALES RIVERSIDE
1400 MARLBOROUGH AVE
RIVERSIDE, CA 92507-2097

WBC/cw



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November 28, 2018

(b) (6), (b) (7)(C)

Re: I.A.T.S.E. LOCAL 44
(Entertainment Partners)
Case 21-CB-226491

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that I.A.T.S.E. Local 44 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union violated Section 8(b)(1)(A) of the Act by operating a hiring hall in a manner that was arbitrary, discriminatory or in bad faith. However, the investigation disclosed insufficient evidence to establish that the Union failed to operate its hiring hall using objective criteria, or failed to adhere to its hiring hall rules. Rather, it appears that your employment involved herein does not constitute qualifying days for purposes of the 30-day requirement for obtaining placement on the Industry Experience Roster. Moreover, the investigation revealed no evidence that the Union acted in a discriminatory manner because of any protected activities. Accordingly, further proceedings in this matter are not warranted.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlrb.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlrb.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **December 12, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than December 11, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before December 12, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after December 12, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/William B. Cowen
Regional Director

Enclosure

cc: (See next page)

cc: ENTERTAINMENT PARTNERS
2850 N HOLLYWOOD WAY
BURBANK, CA 91505-1023

ED BROWN, BUSINESS AGENT
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LEVY PHILLIPS, APC
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WBC/fb



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 21
US Court House, Spring Street
312 N Spring Street, Suite 10150
Los Angeles, CA 90012

Agency Website: www.nlr.gov
Telephone: (213)894-5200
Fax: (213)894-2778

November 19, 2018

(b) (6), (b) (7)(C)

Re: TEAMSTERS LOCAL 630
(Super Value)
Case 21-CB-228276

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that TEAMSTERS LOCAL 630 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because of the lack of cooperation by the Charging Party.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **December 3, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than December 2, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal

must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before December 3, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after December 3, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/WILLIAM B. COWEN
Regional Director

Enclosure

cc: SUPER VALUE
15015 VALLEY VIEW AVE
SANTA FE SPRINGS, CA 90670-5322

RENEE SANCHEZ, ATTORNEY AT LAW
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513 S MYRTLE AVE STE B
MONROVIA, CA 91016-6154

TEAMSTERS LOCAL 630
750 SOUTH STANFORD AVENUE
LOS ANGELES, CA 90021

WBC/mr



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November 14, 2018

H. SANFORD RUDNICK, LABOR CONSULTANT
SANFORD H. RUDNICK JD & ASSOCIATES
1200 MT. DIABLO BOULEVARD, SUITE 105
WALNUT CREEK, CA 94596-4823

Re: TEAMSTERS LOCAL 396
(Madison Materials, Inc.)
Case 21-CB-228904

Dear Mr. Rudnick:

We have carefully investigated and considered your charge that TEAMSTERS LOCAL 396 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have concluded that further proceedings are not warranted and I am dismissing your charge for the following reasons:

Your charge alleges that the Union restrained and coerced Madison Materials, Inc. (Employer) in the selection of their collective bargaining representative. While the Employer contends that by filing the Petition to Compel Arbitration (Petition), the Union is attempting to restrain the Employer in the selection of its bargaining representative, the investigation showed that the Union's Petition does not violate Board law. The investigation disclosed that the parties agreed to a Memorandum of Agreement which contains an interest arbitration provision, and the Union filed its Petition in an effort to seek enforcement of the this provision. In dismissing this charge, we express no view as to the merits of the Union's Petition or the Employer's proffered defenses thereto.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlrb.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlrb.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel** at the **National Labor Relations**

Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **November 28, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 27, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 28, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202) 273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 28, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/WILLIAM B. COWEN
REGIONAL DIRECTOR

Enclosure

cc: (See next page.)

cc: KIM WEBER, ATTORNEY AT LAW
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TEAMSTERS LOCAL 396
880 S OAK PARK RD, STE 200
COVINA, CA 91724-0604

MADISON MATERIALS, INC.
1451 MANHATTAN AVE.
FULLERTON, CA 92831-5221

WBC/cw



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November 14, 2018

H. SANFORD RUDNICK, LABOR CONSULTANT
SANFORD H. RUDNICK JD & ASSOCIATES
1200 MT DIABLO BLVD STE 105
WALNUT CREEK, CA 94596-4823

Re: TEAMSTERS LOCAL 396
(Madison Materials, Inc.)
Case 21-CB-228906

Dear Mr. Rudnick:

We have carefully investigated and considered your charge that TEAMSTERS LOCAL 396 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge generally alleges that the Union is bargaining in bad faith by: filing a lawsuit in Federal Court to try to coerce Madison Materials, Inc. (Employer) into an interest arbitration when the parties are in negotiations to for a collective bargaining agreement; trying to circumvent the bargaining process to coerce the Employer into an agreement that is not in the best interest of the Employer; trying to use an expired Memorandum of Agreement (MOA) to coerce the Employer into an interest arbitration; stating that the Union will never accept the provision in the Employer's proposal and will only accept the provisions in a Master Agreement; and violating the principals in *Bill Johnson* by filing a lawsuit that is without merit and is retaliatory.

While the Employer contends that by filing the Petition to Compel Arbitration (Petition), the Union is acting in bad-faith bargaining, the investigation disclosed otherwise. Thus, there is no evidence that the Union engaged in bad-faith bargaining in advance of filing the Petition, was engaged in bad-faith bargaining by filing the Petition, or filed the Petition in order to evade its bargaining obligation. Instead, the investigation showed that the parties agreed to a MOA, which contains an interest arbitration provision, and the Union filed its Petition in an effort to seek enforcement of the interest arbitration provision. Furthermore, while the Employer maintains that the MOA is now expired, the obligation to arbitrate pre-expiration disputes may survive the expiration of an agreement; accordingly, the Union has a colorable claim that the interest arbitration provision is still viable. In dismissing this charge, we express no view as to the merits of the Union's Petition or the Employer's proffered defenses thereto.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/William B. Cowen
Regional Director

Enclosure

cc: KIM WEBER, ATTORNEY AT LAW
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