



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006

Agency Website: www.nlrb.gov
Telephone: (206)220-6300
Fax: (206)220-6305

November 6, 2018

Boris Petrenko, Attorney
Petrenko Law Firm
155 108th Ave NE Ste 210
Bellevue, WA 98004-5956

Geoffrey Kim
Amity Legal Associates PS
155 108th Ave NE Ste 210
Bellevue, WA 98004-5956

Re: Service Employees International Union,
Local 6 (Sammi Beauty Global, Inc.)
Case 19-CB-227379

Dear Parties:

We have carefully considered your charge that Service Employees International Union, Local 6 has violated the National Labor Relations Act.

Decision to Dismiss: I am dismissing your charge based on your failure to cooperate in the Region's investigation. The Region informed you by letter dated September 17, 2018, that it was your responsibility as the Charging Party to promptly present evidence in this matter. Since then, the Board Agent has left four voice mails and sent two emails asking for your evidence. You were given written notice by email on October 25 that if you failed to provide an affidavit by November 2, the charge would be dismissed for lack of cooperation. You failed to meet that deadline. Accordingly, I am dismissing the charge.

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 20, 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 19, 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 20, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlrb.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 20, 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,

A handwritten signature in black ink, appearing to read "Ronald K. Hooks", written in a cursive style.

RONALD K. HOOKS
Regional Director

Enclosure

Service Employees International Union,
Local 6 (Sammi Beauty Global, Inc.)
Case 19-CB-227379

- 3 - November 6, 2018

cc: Fred Prockiw, Director of Organizing
Service Employees International
Union, Local 6
3720 Airport Way S
Seattle, WA 98134-2217

Seung Hun Ko
Sammi Beauty Global, Inc.
11542 NE 21st St
Bellevue, WA 98004-3025

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October 29, 2018

CHRISTOPHER L. HILGENFELD, ATTORNEY
DAVIS GRIMM PAYNE & MARRA
701 5TH AVE, STE 4040
SEATTLE, WA 98104-7071

**Re: Operative Plasterers and Cement
Masons International Association, Local
Union No. 528 (Skanska USA Building,
Inc.)
Case 19-CD-228384**

Dear Mr. Hilgenfeld:

We have carefully investigated and considered your charge that Operative Plasterers and Cement Masons International Association, Local Union No. 528 has violated the National Labor Relations Act.

Decision to Dismiss: I am declining to issue a notice of hearing, as provided in Section 10(k) of the Act, and I am dismissing your charge for the reasons discussed below.

Your charge alleges that the Charged Party Union has violated § 8(b)(4)(ii)(D) by maintaining a grievance seeking work or damages in lieu of work in contravention of the Board's August 16, 2018 decision in 19-CD-211263. Specifically, in that decision, the Board awarded the work at issue to "employees of Leewens Corporation, represented by Washington and Northern Idaho District Council of Laborers." Since issuance of that decision, the Charged Party Union has maintained a contractual grievance for damages in lieu of work (the work at issue having been completed) against Charging Party Skanska. It has made no threat of picketing nor has it made any demand for the work to any other party.

Pursuit of a lawsuit or grievance arbitration to obtain work in contravention of the Board's award of the work to another union is a violation of § 8(b)(4)(ii)(D). *See, e.g., Roofers Local 30 (Gundle Constr.)*, 307 NLRB 1429 (1992), *enfd.* 1 F.3d 1419 (3d Cir. 1993). Maintenance of such a suit or grievance is a violation even if a union seeks only pay-in-lieu-of-work damages, and not actual reassignment of the work. *See, e.g., Laborers Local 261 (Skinner, Inc.)*, 292 NLRB 1035 (1989); *Longshoremen ILWU Local 13 (Sea-Land)*, 290 NLRB 616 (1988), *enfd.* 884 F.2d 1407, 1413-1414 (D.C. Cir. 1989); *Longshoremen ILWU Local 32 (Weyerhaeuser Co.)*, 271 NLRB 759 (1984), *enfd. sub nom. Longshoremen ILWU Local 32 (Weyerhaeuser) v. Pacific Maritime Assn.*, 773 F.2d 1012 (9th Cir. 1985), *cert. denied* 476 U.S. 1158 (1986). However, in the construction industry, a union does not violate the Act by maintaining a subcontracting grievance against a general contractor after a § 10(k) proceeding over the same work, as long as the grievance is not against the employer of the employees

awarded the work at issue. *Carpenters Local 33 (AGC of Mass.)*, 289 NLRB 1482, 1484 (1988); *Laborers Int'l Union (Capitol Drilling Supplies, Inc.)*, 318 NLRB 809 (1995).

Here, the Charged Party has maintained its grievance against Skanska, not Leewens, the employer of the employees to whom the Board's decision awarded the work. Since the Board decision, the Charged Party has made no claim for the work to either Leewens or Skanska, nor has it engaged in any other behavior in contravention of the Board decision.

Accordingly, further proceedings at this time are unwarranted and I am dismissing the charge.

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

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Appeal Due Date: The appeal is due on **November 13, 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 12, 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

Operative Plasterers and Cement Masons - 3 -
International Association, Local Union No.
528 (Skanska USA Building, Inc.)
Case 19-CD-228384

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Very truly yours,



RONALD K. HOOKS
Regional Director

Enclosure

cc: ERIC COFFELT
 BUSINESS MANAGER
 OPERATIVE PLASTERERS AND
 CEMENT MASONS INTERNATIONAL
 ASSOCIATION, LOCAL UNION NO. 528
 6737 CORSON AVE. SOUTH
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klm