

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**SETTLEMENT AGREEMENT**

IN THE MATTER OF

**INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 139**

**Case 30-CB-5569**

The undersigned Charged Party and the undersigned Charging Party, in settlement of the above matter, and subject to the approval of the Regional Director for the National Labor Relations Board, HEREBY AGREE AS FOLLOWS:

**POSTING OF NOTICE** — Upon approval of this Agreement and receipt of the Notices from the Region, which may include Notices in more than one language as deemed appropriate by the Regional Director, the Charged Party will post immediately in conspicuous places in and around all of its offices and halls, including all places where notices to employees/members are customarily posted, and maintain for 60 consecutive days from the date of posting, copies of the attached Notice (and versions in other languages as deemed appropriate by the Regional Director) made a part hereof, said Notices to be signed by a responsible official of the Charged Party and the date of actual posting to be shown thereon. The Union will also submit forthwith signed copies of said Notice to the Regional Director who will forward them to the employer whose employees are involved herein, for posting, the employer willing, in conspicuous places in and about the employer's jobsite where they shall be maintained for 60 consecutive days from the date of posting. Further, in the event that the charged union maintains such bulletin boards at the facility of the employer where the alleged unfair labor practices occurred, the union shall also post Notices on each such bulletin board during the posting period.

In addition to physical posting of paper notices, the Notice shall also be posted in a conspicuous place on the Charged Party's website and shall remain posted for 60 consecutive days from the date it was originally posted. The Charged Party will e-mail the Region's Compliance Officer at [Richard.Neuman@nlrb.gov](mailto:Richard.Neuman@nlrb.gov) with a link to the electronic posting location on the same day as the posting.

In addition, the Notice shall be read aloud by a responsible official of the Charged Party at May 11, 2011 Union meeting in Pewaukee, Wisconsin. A Board Agent will be present when the responsible official reads the Notice to members.

**COMPLIANCE WITH NOTICE** — The Charged Party will comply with all the terms and provisions of said Notice.

By entering into this Settlement Agreement the Charged Party does not admit to having committed any violation of the National Labor Relations Act.

By entering into this Settlement Agreement the Charged Party waives all rights it may have under the Equal Access to Justice Act, Public Law 96-481, 94 Stat. 2325.

**SCOPE OF THE AGREEMENT** — This Agreement settles only the following allegations in the above-captioned case(s), and does not constitute a settlement of any other case(s) or matters:

On or about May 7, 2010, Charged Party, by Chip Milner, at the Oak Creek jobsite, threatened an employee with termination because he filed charges against the Union with the National Labor Relations Board.

On or about May 7, 2010, Charged Party, by Chip Milner, at the Oak Creek jobsite, threatened an employee with expulsion from the Union because he filed charges against the Union with the National Labor Relations Board.

On or about May 12, 2010, Charged Party, by Terry McGowan, at the Pewaukee Union hall, threatened Union-represented members and employees with the loss of their raises because other members filed charges against the Union with the National Labor Relations Board.

On or about May 12, 2010, Charged Party, by Terry McGowan, at the Pewaukee Union hall, coerced members by informing them that it was against the Union's by-laws to file a charge against the Union with the National Labor Relations Board before first exhausting internal remedies.

On or about May 12, 2010, Charged Party, by Terry McGowan, at the Pewaukee Union hall, threatened to file internal charges against members because they filed charges against the Union with the National Labor Relations Board.

On or about May 12, 2010, Charged Party, by Terry McGowan, at the Pewaukee Union hall, urged members to file internal charges against members because they filed charges against the Union with the National Labor Relations Board.

On or about May 12, 2010, Charged Party, by Terry McGowan, at the Pewaukee Union hall, threatened to fine members because they filed charges against the Union with the National Labor Relations Board.

On or about May 12, 2010, Charged Party, at the Pewaukee Union hall, condoned threats of violence made by members against other members because they filed charges against the Union with the National Labor Relations Board.

No remedies in addition to the above-cited Posting of Notice provision are required in this matter.

It does not preclude persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters which precede the date of the approval of this Agreement regardless of whether such matters are known to the General Counsel or are readily discoverable. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

**REFUSAL TO ISSUE COMPLAINT** — In the event the Charging Party fails or refuses to become a party to this Agreement, and if in the Regional Director's discretion it will effectuate the policies of the National Labor Relations Act, the Regional Director shall decline to issue a Complaint herein (or a new Complaint if one has been withdrawn pursuant to the terms of this Agreement), and this Agreement shall be between the Charged Party and the undersigned Regional Director. A review of such action may be obtained pursuant to Section 102.19 of the Rules and Regulations of the Board if a request for same is filed within 14 days thereof. This Agreement shall be null and void if the General Counsel does not sustain the Regional Director's action in the event of a review. Approval of this Agreement by the Regional Director shall constitute withdrawal of any Complaint(s) and Notice of Hearing heretofore issued in the above captioned case(s), as well as any answer(s) filed in response.

**AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY.**

Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes \_\_\_\_\_ No \_\_\_\_\_  
 Initials Initials

**PERFORMANCE** — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will issue the complaint on the allegations spelled out above in the Scope of Agreement section. Thereafter, the General Counsel may file a motion for summary judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that all of the allegations of the aforementioned complaint will be deemed admitted and it will have waived its right to file an Answer to such complaint. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party, on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is customary to remedy such violations. The parties further agree that the U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte.

**NOTIFICATION OF COMPLIANCE** — The undersigned parties to this Agreement will each notify the Regional Director in writing what steps the Charged Party has taken to comply herewith. Such notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. In the event the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that no review has been requested or that the General Counsel has sustained the Regional Director. Contingent upon compliance with the terms and provisions hereof, no further action shall be taken in the above captioned case(s).

Charged Party <b>INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 139</b>		Charging Party <b>TIMOTHY A. PARE</b>	
By: Name and Title /s/ Brian C. Hlavin	Date 2/25/11	By Name and Title /s/ Timothy A. Pare	Date 3-2-11
Recommended By: /s/ Jessica M. Gibson Board Agent	Date 3/4/11	Approved By: /s/ Irving E. Gottschalk Regional Director	Date 3/15/11