

April 1, 2015

CCO-053

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner

v.

BUILDING AND CONSTRUCTION TRADES
COUNCIL OF PHILADELPHIA, AND VICINITY:
AFL-CIO

Respondent.

No. 15-1646

CONSENT ORDER

Before: FUENTES, GREENAWAY, JR., and VANASKIE, Circuit Judges

The National Labor Relations Board ("the Board") and the Philadelphia Building

and Construction Trades Council ("the BCTC") having entered into a Stipulation for the entry of this Consent Order, it is hereby

ORDERED that the Stipulation dated 3/27/2015, is approved and shall be filed.

IT IS FURTHER ORDERED that the BCTC, its officers, agents and representatives shall:

(1) Conduct themselves in all respects consistent with this Consent Order, the August 4, 1989 contempt adjudication and the 2004 Settlement Agreement, and not in any way, by action or inaction, conduct, engage, induce, encourage, permit or condone any violation of that adjudication or settlement agreement or the orders that they enforce.

(2) Within ten (10) days after receipt of a Notice drafted by the Board delineating the terms of this settlement, duplicate at their own expense and post in conspicuous places in the BCTC's business offices, meeting hall and all places within the territorial

jurisdiction of the BCTC where notices to employees, officers and members are customarily posted, for a period of sixty consecutive days, copies of this Consent Order and of the Notice, signed by an appropriate officer on behalf of the BCTC. The BCTC agrees to maintain such notices and copies of the Consent Order in clearly legible condition throughout the posting period and shall insure that they are not altered, defaced or covered by other material. Within 15 days after said posting, the BCTC shall supply the Board's Region 4 in Philadelphia with a signed copy of the notice and Order and a certification of the dates and locations of posting and, upon reasonable notice, shall allow an agent of the Board access to any of its premises during the posting period to verify its compliance with this provision.

(3) Within ten (10) days after receipt of the Notice drafted by the Board, duplicate and mail, at its own expense, by certified mail return receipt requested or another method of delivery that provides proof of receipt, copies of the Notice, signed by an appropriate officer on behalf of the BCTC, and this Consent Order to each of the officers, agents, and representatives of the each of the local unions affiliated with the BCTC and request that the chief executive officer of each such local union post these documents at their business offices, meeting halls, and all places where notices to their employees, officers and members are customarily posted.

(4) Within ten (10) days after receipt of the Notice drafted by the Board, duplicate and mail, at its own expense, sufficient copies of the Notice, signed by an appropriate officer on behalf of the BCTC, and this Consent Order to Region 4 for posting at the offices of POST Goldtex, LP, if such employer wishes to do so.

IT IS FURTHER ORDERED that the BCTC shall require all of its agents, officers and/or representatives to give the BCTC prior notice of each day he or she intends to visit the site of any strike or picketing.

IT IS FURTHER ORDERED that the BCTC shall make a written record of any such notice required by the preceding paragraph. The record shall include: (1) the name of the agent, officer, and/or representative of the BCTC who intends or has visited the site of any strike or picketing; (2) the address and/or location of the visited strike or picketing; and (3) the name of the employer(s) that is the target of said strike or picketing. The BCTC shall retain all such records at their office and furnish, upon request, said records to the Board's Regional Director for Region 4 or the Board's Contempt Litigation & Compliance Branch ("CLCB") within five days of the request.

IT IS FURTHER ORDERED that Patrick Gillespie, Fred Cosenza, and each officer and business agent or business representative of the BCTC shall read this Consent Order and signify in writing, under oath, that he or she has been furnished with a copy of the August 4, 1989 contempt adjudication, that he or she has read and understands said orders and that he or she will conduct himself or herself in all respects consistent with the terms thereof and will in no way, by action or inaction, commit, engage in, induce, encourage, permit, or condone any violation of these orders of the court. Copies of the aforesaid acknowledgment shall be furnished to the Contempt Litigation & Compliance Branch within ten days of their execution.

IT IS FURTHER ORDERED that the BCTC is hereby assessed the sum of \$40,000, to be paid to the Board by the BCTC and allocated, in the Board's sole discretion, among non-compliance fines, reimbursement of the Board's costs and

attorneys' fees, and compensatory damages to parties injured by the BCTC's conduct. The \$40,000 fine shall be paid in two installments of \$20,000. The first installment shall be paid to the Board within thirty days of the Court's approval of this Consent Order. The second installment shall be paid to the Board within one year or 365 days from the date of the payment of the first installment. In the event that the payment is more than ten days late, notice of delinquency shall be sent to the BCTC by the Board. If this delinquency is not cured within ten days of receipt of the notice, the suspended fine of \$150,000 shall become immediately due and payable.

IT IS FURTHER ORDERED that Fred Cosenza is hereby assessed the sum of \$7,500, to be paid to the Board by Cosenza. The BCTC may not reimburse Cosenza for this amount. The \$7,500 fine shall be paid in twelve installments of \$625. The first installment shall be paid to the Board within thirty days of the Court's approval of this Consent Order. Installments thereafter shall be paid within 30 days of the payment of the prior installment. In the event that the payment is more than ten days late, notice of delinquency shall be sent to Cosenza and the BCTC by the Board. If this delinquency is not cured within ten days of receipt of the notice, the suspended fine of \$150,000 shall become immediately due and payable.

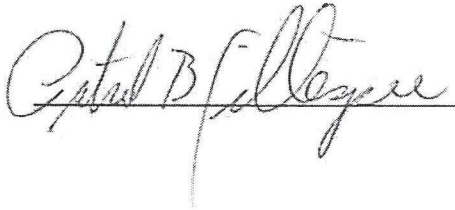
IT IS FURTHER ORDERED that the suspended fine of \$100,000 arising from the August 4, 1989 contempt adjudication and the 2004 Settlement Agreement is increased to \$150,000. This fine will continue to be suspended on condition of future compliance with the judgments and orders of this Court. In the event of any further violation, the \$150,000 shall become due and payable.

IT IS FURTHER ORDERED that in order to ensure compliance with this consent order and with the prior contempt adjudications and orders of this Court, the BCTC shall be subject to a prospective fine of \$150,000 for each violation and a fine of \$15,000 per day for each day the violation continues. In addition, the agent, officer and/or representative of the BCTC participating in, or responsible, for such non-compliance shall be fined \$10,000 for the initial violation, and an additional \$500 per day for each subsequent day that the violation continues.

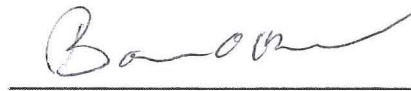
This Order shall not preclude the Board from requesting such other remedies as it deems appropriate to further remedy contumacious conduct.

Approved as to form:

Philadelphia Building and
Construction Trades Council



National Labor Relations Board



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Dated this 26 day of 2015 in
Philadelphia, PA

Dated this 27th day of Mar in
Washington, D.C.

IT IS SO ORDERED:

Date: 7/30/15

s/Joseph A. Greenaway, Jr.
Circuit Judge

Date: _____

Circuit Judge

Date: _____

Circuit Judge