

United States Government

NATIONAL LABOR RELATIONS BOARD

Region 30

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February 6, 2009

Mr. Scott Graham, Esq.
1911 West Centre Avenue, Suite C
Portage, MI 49024

**Re: United Kiser Services LLC
Case 30-RC-6745**

Dear Mr. Graham:

The Region has carefully investigated and considered your petition in the above-captioned case, petitioning for an investigation and determination of representative under Section 9(c) of 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 petition for the following reasons:

The evidence shows there are two related outstanding unfair labor practice charges in United Kiser Services, LLC, Case 30-CA-18129 and Construction and Construction Laborers Union, Local 139 (United Kiser Services, LLC) Case 30-CB-5352. The Region determined that these charges were meritorious and found interrelated, that the Petitioner received unlawful assistance from the Employer regarding the Petitioner's representation of the unit of employees at issue in the petition. Thus, the Region issued Complaints and an Order Consolidating Cases and Notice of Hearing in these cases on December 31, 2008.

This petition was filed on January 12, 2009. On January 15, 2009, the Region issued an Order to Show Cause, requesting that the parties present their arguments concerning why the current petition should not be dismissed. After reviewing the parties' responses, I have determined that the current petition should be dismissed. This decision is consistent with *Halben Chemical Co.*, 124 NLRB 1431 (1959), wherein the Board held that a labor organization found to have received unlawful assistance has no standing to seek a Board conducted election and its petition is subject to dismissal; and *Sears, Roebuck & Co.*, 112 NLRB 559 (1955), wherein the Board found that such a labor organization may file a new petition based on an adequate showing of interest obtained after its illegal status of employee representative has been dissipated.

Reinstatement of Petition: Upon request by the Petitioner after disposition of Cases 30-CA-18129 and 30-CB-5352, the petition may be reinstated, if appropriate. Accordingly, a copy of the order or other document that disposes of those cases will be sent to the Petitioner.

Your Right to Seek Review. The National Labor Relations Board's Rules and Regulations permits any party to obtain a review of this action by filing a request (eight copies)

with the Executive Secretary. If you wish to seek review of this action, your attention is directed to the following.

Review Request Due Date: The request for review must be received by the Executive Secretary in Washington, D.C. by the close of business at 5:00 p.m. (ET) on February 20, 2009. However, if you mail the request for review, it will be considered timely if it is postmarked no later than one day before the due date.

Other Electronic Filings: In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file one of the documents which may now be filed electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. Guidance for E-filing can also be found on the National Labor Relations Board web site at www.nlr.gov. On the home page of the website, select the **E-Gov** tab and click on **E-Filing**. Then select the NLRB office for which you wish to E-File your documents. Detailed E-filing instructions explaining how to file the documents electronically will be displayed.

Extension of Time to File Request for Review: Upon good cause shown, the Board may grant special permission for a longer period within which to file. A request for an extension of time should be submitted to the Executive Secretary. A copy of any such request for extension of time should be submitted to me and to each of the other parties to this proceeding and the copy must be served in the same or faster manner as that utilized in filing the request with the Board.

Request for Review Contents: Any request for review (eight copies) must contain a complete statement setting forth the facts and reasons upon which it is based. You should send a copy of the request for review to me and to each of the other parties to the proceeding. The request for review must be served in the same or faster manner as that utilized in filing the request with the Board.

Address for Request for Review: The request for review should be sent to the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, DC 20570.

Very truly yours,

/s/ Irving E. Gottschalk

Irving E. Gottschalk
Regional Director

cc: see next page

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Executive Secretary *VIA E-MAIL*
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