

SIEMENS**Legal Department**

February 11, 2009

VIA FACSIMILE
202-612-4333

Mr. Arvind Ganesan
Director
Human Rights Watch
1630 Connecticut Avenue, N.W.
Suite 500
Washington, DC 20009

RE: HRW Report

Dear Mr. Ganesan:

As the designated counsel for Siemens Building Technologies, Inc., I have been asked to provide a response to your inquiry on the captioned matter. Although SBT was unsuccessful in litigation as described below, it is my belief that its positions were valid. Further, SBT has adhered to all final adjudications in the matter.

This matter arises from a construction project for Monroe County, New York, that commenced in late 2002. SBT replaced the County's coal-fired electrical/heat "co-generation" plant ("Iola Plant") with a newly-constructed, adjacent plant that operated on natural gas ("Fleet Plant"). SBT operated and maintained the Iola Plant until it was decommissioned. SBT then operated and maintained the Fleet Plant, and continues to do so today.

During the County's supervision of the Iola Plant, employees of the Iola Plant were represented by Local 832 of the International Union of Operating Engineers ("Union"). SBT hired the same employees to operate the Iola Plant during SBT's tenure as plant operator. When the Fleet Plant began operations in late 2003, SBT hired some of the same employees to work at that facility.

SBT and the Union initially attempted to negotiate a collective bargaining agreement relative to Iola, but these negotiations did not succeed. SBT then refused to recognize and bargain with the Union relative to either facility. The Union consequently brought unfair labor practice charges against SBT. In the remainder of this memo, I briefly describe SBT's positions relative to each facility.

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Pages to follow: 3

Message:

Please contact Toni Santos at toni.santos@siemens.com or 847-941-5317 if you encounter any difficulty with this facsimile.

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Iola Plant:

SBT first contended it was not required to recognize the Union because SBT was not a "successor" to the County. SBT was a private company that took over a small portion of the County's "business." SBT argued that it was so dissimilar to the County that it could not properly be considered a successor. SBT also contended that the Union had lost the support of a majority of the employees, citing a June, 2003 poll of employees which so reflected. If proved, either argument would relieve SBT of the obligation to recognize and bargain with the Union.

SBT lost both arguments after a trial before an Administrative Law Judge. SBT appealed to the NLRB as to the second issue, only, but lost. The NLRB panel concluded that SBT had not satisfied its burden of proving the Union had lost majority support.

The Iola Plant closed and the Fleet Plant opened in late 2003. During this period a second, related dispute arose, this concerning the newly-opened Fleet Plant.

Fleet Plant

The Union sought recognition as representative of the employees of the Fleet Plant, all of whom had been Union members while working (for the County) at the Iola Plant. SBT did not recognize the Union. SBT raised essentially the same issues as it did in connection with the Iola Plant. SBT further argued that the work duties at Iola were substantively different than those at Fleet, in that Iola relied in great part on 19th Century, labor-intensive technology (analogue gauges and the like) while Fleet was a high technology facility operated primarily through SBT's automated building management system ("BMS"). In order to operate the Fleet plant, employees had to undergo thorough training on how to interpret and manipulate the BMS.

SBT lost all issues before both the Administrative Law Judge and the NLRB Panel. The NLRB Panel ordered SBT to negotiate with the Union, if/when the Union so requested.

SBT has fully adhered to the NLRB Order in all respects; it recognized the union as the bargaining representative for these employees and for over a year it timely negotiated in good faith with the Union as requested. The parties exchanged multiple proposals and met about once a month. During the company's good faith bargaining with the union, the employees became dissatisfied with the union's representation and voluntarily sought to remove the union as their collective bargaining representative. These employees filed a petition with the NLRB seeking an election to determine the union's status as their representative. Shortly after filing the petition, the union disclaimed interest in continuing to

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represent these employees. As a result of SBT's full compliance with the NLRB Order, the Compliance Officer closed the case, effective January, 2007.

Although SBT was not successful in litigation, its actions were based on valid legal and factual predicates. SBT fully adhered to all Orders imposed. SBT presently maintains a full staff at the Fleet Plant, consisting of former Union employees who have not expressed any further desire for Union representation.

Sincerely,



Daniel W. Hislip
Associate General Counsel

DWH/ts

cc: Peter Loscher
Martin Gross
Robert Lupone
Mike Panigel
Thomas Haas
Philip Paseltiner