UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Region 1 Boston, Massachusetts
10 Causeway Street, 6th Floor
Boston, MA 02222-1072
(617) 565-6700

December 30, 2008

Wendy M. Bittner, Esq.
Law Office of Wendy M. Bittner
15 Court Square, Suite 300
Boston, MA 02108

Re: Standard-Thomson
Case 1-CA-44941
and
Stant Manufacturing
Case 1-CA-44942

Dear Ms. Bittner:

The Region has carefully investigated and considered your charges against Standard-Thomson and Stant Manufacturing, alleging violations under Section 8 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 charges for the following reasons.

Your charges allege that Standard-Thomson and Stant Manufacturing announced a decision to close because of anti-union animus, and failed and refused to bargain in good faith with the union regarding the closure of the Standard-Thomson plant in Waltham, Massachusetts, including failing to provide information requested by the Union needed in bargaining, in violation of Sections 8(a)(3) and (5) of the Act.

The investigation revealed that Standard-Thomson is a wholly owned subsidiary of Stant Corporation, which also owns Stant Manufacturing. It is undisputed that the operations, labor relations, and financial ownership of Standard-Thomson and Stant Corporation are sufficiently integrated, such that they function as a single employer with respect to the employees at issue at the plant in Waltham. Therefore, your allegations against Standard-Thomson and Stant are considered together, and they will be referred to here as "the companies" or "the Employer."

Regarding your allegation that either the Employer's decision to close, or its announcements about the decision to close, was motivated by anti-union animus, the investigation revealed no evidence to support a finding of anti-union animus. Although the evidence did reveal that the Employer's announcement of its consideration to close the plant occurred only a few weeks after the parties received an arbitrator's award that favored the union and that resulted in a financial cost to the companies, there was no showing that the Employer was motivated to shut down its plant because of this arbitration decision or its consequence.

Moreover, the Employer demonstrated it would have made the announcement and decision to close in the absence of this union activity. Your assertion that the Employer's stated reason for considering closing the plant — that it could save about $6.1 million per year — was mere pretext was not supported by the record. Therefore, I find that the evidence does not support a finding that the companies violated Section 8(a)(3) in the manner alleged.

Your allegation that the Employer failed and refused to furnish information to the union, or unlawfully delayed in furnishing information to the union, is also not supported by the record. The investigation revealed that, during bargaining, the Union requested information about its pension, about the long-term disability plan, and about the companies' timelines for planned closure of the Waltham plant, and that this information was not provided immediately upon request. The investigation further revealed, however, that the Employer told the Union it was trying to get the information and that certain information did not exist; that some information was provided in a timely manner; and that the balance of the information was provided when it became available to the Employer. The Employer submitted explanations for the delays in providing information that establish that its failure to provide information immediately was not a result of bad faith. Based on the investigation, I find the record does not support your allegation that the Employer violated Section 8(a)(5) of the Act by refusing to provide relevant and necessary information requested by the Union.

Finally, the investigation does not support your allegation that the Employer engaged in bad faith bargaining, either during the parties' bargaining about the decision to close or during the bargaining about the effects of the decision to close. The investigation revealed that, over several weeks of bargaining, the Union was not able to propose any manner of cost savings that would come close to the $6.1 million the companies expected to realize annually if they closed the plant, and the companies determined they would close the plant. Following this determination, the parties continued to bargain about the effects of the closure, and on November 20, 2008, came to an agreement about how the closure would affect employees in the bargaining unit. Although the Union claims that the companies unlawfully conditioned bargaining on employees providing comprehensive releases of liability to the companies, the final effects bargaining agreement contained no such releases. Although the investigation revealed that the Employer's representatives were persistent, at first, in their attempts to gain such releases in bargaining, it further revealed that neither party insisted to impasse on the provision of releases. Based on the above, I find the record does not support your allegation that the companies bargained in bad faith either about the decision to close or about the subsequent effects of the plant closure.

Based on the above, I find the evidence adduced in the investigation does not support the allegations in your charges. Therefore, I am refusing to issue a complaint in these matters.

Your Right to Appeal: Pursuant to the National Labor Relations Board Rules and Regulations, you may obtain a review of this action by filing an appeal with the General Counsel of the National Labor Relations Board, Attn: Office of Appeals, Room 8820, 1099 14th Street, N.W., Washington, D.C. 20570-0001, <u>and</u> a copy with the Regional Director.

Use of Form NLRB-4767 will satisfy this requirement. You should also notify all other parties to your case and their representatives that an appeal is being filed. A copy of Form NLRB–4767 is sufficient.

An appeal also may be filed electronically by using the e-filing system on the Agency's Website. In order to file an appeal electronically, please go to the Agency's Website at www.nlrb.gov, and select the "E-GOV." tab and click "E-filing". Scroll to the *General Counsel's Office of Appeals*. Select the type of document you wish to file electronically and you will navigate to detailed instructions on how to file an appeal electronically.

Confidentiality/Privilege: Please be advised that we cannot accept any limitations on the use of any appeal statement or evidence in support thereof provided to the Agency. Thus, any claim of confidentiality or privilege cannot be honored, except as provided by the FOIA, 5 U.S.C. 552, and any appeal statement may be subject to discretionary disclosure to a party upon request during the processing of the appeal. In the event the appeal is sustained, any statement or material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. Further, we are required by the Federal Records Act to keep copies of documents used in our case handling for some period of years after a case closes. Accordingly, we may be required by the FOIA to disclose such records upon request, absent some applicable exemption such as those that protect a confidential source, commercial/financial information or personal privacy interests (e.g., FOIA Exemptions 4, 6, 7(C) and 7(D), 5 U.S.C. § 552(b)(4), (6), (7)(C) and 7(D)). Accordingly, we will not honor any requests to place limitations on our use of appeal statements or supporting evidence beyond those prescribed by the previously mentioned laws, regulations, and policies.

Appeal Due Date: The appeal must be received by the General Counsel in Washington, D.C. by the close of business at 5 p.m. on January 13, 2009. If you mail the appeal, it will be considered timely filed if it is postmarked no later than one day before the due date set forth above. If you file the appeal electronically, it must be received by the General Counsel by the close of business at 5:00 p.m. (ET) on January 13, 2009. A failure to timely file an appeal electronically will not be excused on the basis of a claim that transmission could not be accomplished because the receiving machine was off-line or unavailable, the sending machine malfunctioned, or for any other electronic-related reason. The appeal MAY NOT be filed by facsimile transmission.

Extension of Time to File Appeal: Upon good cause shown, the General Counsel may grant you an extension of time to file the appeal. You may file a request for an extension of time to file by mail, facsimile transmission, or through the Internet. The fax number is (202) 273-4283. Special instructions for requesting an extension of time over the Internet are set forth in the attached Access Code Certificate. While an appeal will be accepted as timely filed if it is postmarked no later than one day prior to the appeal due date, this rule does not apply to requests for extensions of time. A request for an extension of time to file an appeal **must be received** on

or before the original appeal due date. A request that is postmarked prior to the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed through the Internet, a copy of any request for extension of time should be sent to me.

Very truly yours,

Rosemary Pye
Regional Director

RP:mhh

Enclosures: Access Code Certificate
Appeal Form
Procedures for Filing an Appeal

cc:

IUE-CWA, Local 274
152 Grove Street
Waltham, MA 02453

Mr. Peter Mitchell, General Counsel
IUE-CWA
501 Third Street, N. W., Suite 800
Washington, DC 20001-2797

Mr. Charles Probasco
Standard-Thomson
152 Grove Street
Waltham, MA 02453

Mr. Charles Probasco
Stant Manufacturing
1620 Columbia Avenue
Connersbille, IN 47331

Mr. John S. Irving, Esq.
R. Timothy Stephenson, Esq.
Kirkland & Ellis
655 Fifteenth Street, NW
Washington, DC 20005

General Counsel, Office of Appeals
National Labor Relations Board
1099 14th Street, N.W., Room 8820
Washington, DC 20570