

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
SAN FRANCISCO BRANCH OFFICE

ST. CATHERINE HEALTHCARE AND  
REHABILITATION CENTER, LLC  
Employer

and

Case 28-RC-6661

DISTRICT 1199NM NATIONAL UNION OF  
HOSPITAL AND HEALTHCARE EMPLOYEES,  
AFSCME, AFL-CIO

SUPPLEMENTAL REPORT

**WILLIAM G. KOCOL**, Administrative Law Judge. On September 28, 2009, I issued a Report on Challenged Ballot and Objections. On February 1, 2010, the Board issued a Decision and Order remanding this matter to me to reconsider certain disputed evidence and issue a supplemental report including credibility determinations, finding of fact, and recommendations. The matter of the remand is covered by Employer's objections 5 and 9, which allege that Board agent who conducted the election engaged in misconduct by soliciting the Petitioner to challenge the Board's agent's determination to void a ballot.

Upon consideration I conclude that after the election and after the Board agent declared the ballot void, the Board agent stated that any party has a right to challenge his determination that the ballot was void.<sup>1</sup> The Board agent then stated that he assumed that the Petitioner was going to challenge the ballot that he had voided.<sup>2</sup> This factual clarification does not alter my conclusions concerning the Employer's objections, because I assessed the objections based on these factual findings in my original Report.<sup>3</sup>

Dated, Washington, D.C. February 24, 2010

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William G. Kocol  
Administrative Law Judge

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<sup>1</sup> This finding is based on the credible testimony of the Board agent. The Board agent's testimony in this regard was not directly contradicted by any other witness to this event. Moreover, it seems to me likely that he would have prefaced the comments that follow by this statement. Remember he has spent some time studying the case handling manual before making his determination.

<sup>2</sup> This finding is based on a composite of the credible testimony of the Board agent, Andujo, and Motal. I conclude it is more likely that the Board agent stated he 'assumed' (Andujo's testimony) that the Petitioner was going to challenge the determination rather than asking the Petitioner if it was going to challenge the determination to void the ballot (the Board agent's testimony.)

<sup>3</sup> Under the provisions of Sec. 102.69 of the Board's Rules and Regulations, Exceptions to this Report may be filed in Washington, DC within 14 days from the date of issuance of this Supplemental Report. Exceptions must be received by the Board in Washington by March 10, 2010.