

Parsec, Inc. and Truck Drivers, Chauffeurs Warehousemen & Helpers Union Local 707, Intervenor and General Teamsters, Local 179, Petitioner. Case 13–RC–21767

February 20, 2009

DECISION AND DIRECTION OF SECOND ELECTION

BY CHAIRMAN LIEBMAN AND MEMBER SCHAUMBER

The National Labor Relations Board¹ has considered the objections to an election held on July 15 and 16, 2008, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 128 for the Petitioner, 230 for the Intervenor, 4 against the participating labor organizations, and 1 void ballot. There were no challenged ballots.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the hearing officer's findings² and recommendations,³ and finds that the elec-

tion must be set aside and a new election held.⁴

[Direction of Second Election omitted from publication.]

⁴ In the absence of exceptions, we adopt pro forma the hearing officer's recommendation to overrule the Petitioner's Objections 1, 3, 4, 5, 6, and 8. The Petitioner withdrew Objection 7 at the hearing.

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Liebman and Member Schaumber constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act.

² The Employer and Intervenor have excepted to some of the hearing officer's credibility findings. The Board's established policy is not to overrule a hearing officer's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Stretch-Tex Co.*, 118 NLRB 1359, 1361 (1957). We find no basis for reversing the findings.

³ In adopting the hearing officer's finding that the Intervenor engaged in impermissible electioneering, we rely on the conduct of Intervenor Steward John Sorich and find it unnecessary to pass on whether the conduct of Intervenor Steward Louis Otero was also objectionable. Chairman Liebman finds it unnecessary to rely on the hearing officer's discussion of the election margin.

In finding that the election must be set aside, Member Schaumber relies solely on the hearing officer's finding that Sorich engaged in prolonged conversations with voters at the polling place in violation of the Board's strict rule against such conduct. See *Milchem, Inc.*, 170 NLRB 362 (1968). He therefore finds it unnecessary to pass on whether Sorich's other conduct at or near the polls, which the hearing officer found constituted impermissible electioneering, was "sufficient to warrant an inference that it interfered with the free choice of the voters." See *Boston Insulated Wire & Cable Co.*, 259 NLRB 1118, 1118–1119 (1982).