

NOT TO BE INCLUDED
IN BOUND VOLUMES

LPH
Canoga Park, CA

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

CANOGA HEALTHCARE, INC.,
d/b/a WEST HILLS HEALTH AND
REHABILITATION CENTER

Employer

and

Case 31-RC-8826

SEIU, SERVICE EMPLOYEES INTERNATIONAL
UNION

Petitioner

CORRECTED DECISION AND CERTIFICATION OF RESULTS OF ELECTION

The National Labor Relations Board, by a three-member panel,¹ has considered objections to an election held on August 19 and 20, 2010, and the administrative law judge's decision recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 24 for and 52 against the Petitioner, with 2 challenged ballots, an insufficient number to affect the results of the election.

¹ Member Becker is recused and did not participate in the consideration of this case.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the judge's findings² and recommendations, and finds that a certification of results of election should be issued.

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for SEIU, Service Employees International Union, and that it is not the exclusive representative of these bargaining unit employees.

Dated, Washington, D.C., March 17, 2011.

Wilma B. Liebman,

Chairman

² The judge was sitting as a hearing officer in this representation proceeding. The Petitioner has 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 have carefully examined the record and find no basis for reversing the findings.

With respect to Petitioner's Objection 3, the Employer argues that it was denied due process by the Petitioner presenting a new claim not argued in its objections or position statement in support of those objections. Even assuming that the Petitioner's claim that the mere presence of the security guard was objectionable is reasonably encompassed within the scope of the objection, it ultimately fails on the merits. See *Quest International*, 338 NLRB 856, 857 (2003).

Chairman Liebman did not participate in *Quest* and she expresses no view on whether it was correctly decided. Accordingly, she applies it here for institutional reasons only.

Mark Gaston Pearce, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD