

NOT INCLUDED IN  
BOUND VOLUMES

LPH  
Albuquerque, NM

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMAZING LIGHT ELECTRICAL CONTRACTING, LLC

Employer

and

Case 28-RC-6739

INTERNATIONAL BROTHERHOOD OF ELECTRICAL  
WORKERS, LOCAL UNION NO. 611, AFL—CIO

Petitioner

DECISION AND DIRECTION OF SECOND ELECTION

The National Labor Relations Board, by a three-member panel, has considered objections to an election held October 8, 2010, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to an Amended Stipulated Election Agreement. The tally of ballots shows 2 for and 0 against the Petitioner, with no challenged ballots.

The Board has reviewed the record in light of the exceptions and brief, and has adopted the hearing officer's recommendation that the election be set aside,<sup>1</sup> and has decided to direct a second election.<sup>2</sup>

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<sup>1</sup> We find that the actions of the Board agents who conducted the election, when viewed in their entirety, and in the unusual circumstances presented in this case, although not rising to the level of misconduct, could reasonably be interpreted as impairing the election standards the Board seeks to maintain. We therefore set aside the election. See *Athbro Precision Engineering Corp.*, 166 NLRB 966, 966 (1967) (observing that in conducting representation elections, the Board "must maintain and protect the integrity and neutrality of its procedures").

<sup>2</sup> Under the circumstances of this case, we find it unnecessary to pass on the issue of employees Robert Jones' and Guadalupe Gallegos' eligibility to vote in the election under the *Daniel/Steiny* formula. See *Daniel Construction Co.*, 133 NLRB 264 (1961), as modified at 167 NLRB 1078 (1967); *Steiny & Co.*, 308 NLRB 1323, 1326

## DIRECTION OF SECOND ELECTION

A second election by secret ballot shall be held among the employees in the unit found appropriate, whenever the Regional Director deems appropriate. The Regional Director shall direct and supervise the election, subject to the Board's Rules and Regulations. Eligible to vote are those employed during the payroll period ending immediately before the date of the Notice of Second Election, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that began less than 12 months before the date of the election directed herein and who retained their employee status during the eligibility period and their replacements. Those in the military services may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the payroll period, striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the date of the election directed herein, and employees engaged in an economic strike that began more than 12 months before the date of the election directed herein and who have been permanently replaced. In addition to those eligible under the standard criteria, employees are eligible to vote if they have been employed for 30 or more working days within the 12 months preceding the eligibility date for the election, or if they have had some employment during those 12 months and have been employed for 45 or more working days within the 24 months preceding the eligibility date. Employees who have been terminated for cause or who quit voluntarily prior to

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(1992). We therefore do not adopt the hearing officer's determination that both employees were ineligible to vote because they had quit before the election. We observe, however, that the relevant inquiry is whether the employees had been "terminated for cause or quit voluntarily prior to the completion of the last job for which they were employed." *Steiny*, 308 NLRB at 1326; *Daniel*, 167 NLRB at 1081. On remand, we leave the determination of Jones', Gallegos', and any other employees' eligibility to vote in the second election to the Regional Director.

the completion of the last job for which they were employed are not eligible. Those eligible shall vote whether they desire to be represented for collective bargaining by the International Brotherhood of Electrical Workers, Local Union No. 611, AFL—CIO.

To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of the Notice of Second Election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election if proper objections are filed.

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

_____ Wilma B. Liebman,	Chairman
_____ Mark Gaston Pearce,	Member
_____ Brian E. Hayes,	Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD