IN THE UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

Marriott Theatre in Lincolnshire, Employer - and - Theatrical Stage Employees Union Local No. 2, I.A.T.S.E., Union	Case No. 13-RC-22004

The Parties' Joint Motion for Remand to the Regional Director To Open and Count Ten Ballots

The Employer and the Union hereby jointly request that the Board remand this matter to the Regional Director of Region 13, solely for the purpose of opening and counting the ballots of the following employees: Henry Baumart (Control No. 2330); Robert Gilmartin (Control No. 2349); Brian Hoehne (Control No. 2353); Jesse Klug (Control No. 2360); David Kolen (Control No. 2361); Scott Pilsbury (Control No. 2368); Michael Ross (Control No. 2378); David Schwartz (Control No. 2370); Rachel West (Control No. 2374); and Julia Zayas-Melendez (Control No. 2377). In support of this motion, the parties state as follows:

1. The parties and the Region entered into a Stipulated Election Agreement for a mail-ballot election in this matter. The tally of ballots was conducted on February 14, 2011. The Employer filed objections to the conduct of the election, and the Union and the Board challenged a combined five ballots. A hearing was held before Hearing Officer Craig Sizer on March 23, 2011, concerning the objections and challenges. The Hearing Officer issued a report and recommendation on May 11, 2011. He recommended that the challenges to the ballots of Robert Gilmartin, Jesse Klug, Brian Hoehne, and Michael Ross be

overruled and that the challenge to the ballot of Peter Blair be sustained. He further recommended that Employer's Objection No. 1 be sustained and that, as a result, the election either be re-run or the ballots of Henry Baumart, David Kolen, Scott Pilsbury, David Schwartz, Rachel West, and Julia Zayas-Melendez be opened and counted.[1] The Hearing Officer recommended overruling the Employer's remaining objections.

2. The parties' exceptions to the Hearing Officer's report and recommendation, if any, are due May 25, 2011. In order to avoid further delay, to avoid the expense of further litigation, and to effectuate the purposes of the Act, the parties hereby agree to waive their respective rights to file exceptions to the Hearing Officer's report and recommendation, but only on the condition that the Hearing Officer's recommendations on the challenged ballots and second alternative recommendation on Employer's Objection No. 1 be accepted and carried out—*i.e.*, that the ballots of the following employees be opened and counted: Henry Baumart (Control No. 2330); Robert Gilmartin (Control No. 2349); Brian Hoehne (Control No. 2353); Jesse Klug (Control No. 2360); David Kolen (Control No. 2361); Scott Pilsbury (Control No. 2368); Michael Ross (Control No. 2378); David Schwartz (Control No. 2370); Rachel West (Control No. 2374); and Julia Zayas-Melendez (Control No. 2377).

3. So long as the matter is remanded to the Regional Director, who in turn orders and conducts the opening and counting of the aforementioned ten ballots, the parties waive their respective rights under the Board's Rules and Regulations to file

[1] All six of these employees mailed their ballots to the Region sufficiently before the deadline in the stipulated election agreement that it was reasonable to expect their receipt by the Regional Office before the deadline and in time for the tally of ballots. Yet the ballots were not opened and counted at the tally.

exceptions to a Regional Director's report or a Hearing Officer's report, to a request for review of a supplemental decision, to any further or additional right to a hearing, or to a Board decision concerning any objection or challenge to voter eligibility that was previously raised in this matter or that could have been raised in this matter prior to the opening and counting of the ten aforementioned ballots. The Employer specifically waives the right to a re-run election based on its previously filed objections, and the Union specifically waives its right to challenge the eligibility of any of the ten voters whose ballots will be opened as a result of this motion. Both parties, however, reserve their respective rights to argue for or against the voiding of any or all of the ten ballots or to file objections to the election based on any new facts learned during the process of opening and counting the ten ballots (*e.g.*, the markings on the ballots or interior envelopes in which they were mailed) and to have those objections or other issues processed pursuant to the Board's Rules and Regulations.

4. The Regional Director or his representative in this matter, J. Edward Castillo, has reviewed this motion and has no objection to it.

WHEREFORE, the Employer and the Union jointly request that the Board remand this matter to the Regional Director of Region 13, solely for the purpose of opening and counting the ballots of the following employees: Henry Baumart (Control No. 2330); Robert Gilmartin (Control No. 2349); Brian Hoehne (Control No. 2353); Jesse Klug (Control No. 2360); David Kolen (Control No. 2361); Scott Pilsbury (Control No. 2368); Michael Ross

(Control No. 2378); David Schwartz (Control No. 2370); Rachel West (Control No. 2374); and Julia Zayas-Melendez (Control No. 2377).

Respectfully submitted,

MARRIOTT THEATRE IN LINCOLNSHIRE

By: s/Brian M. Stolzenbach

THEATRICAL STAGE EMPLOYEES UNION
LOCAL NO. 2, I.A.T.S.E.,

By: s/David Huffman-Gottschling (w/permission)

Dated: May 25, 2011

Certificate of Service

The undersigned hereby certifies that he caused the a true and correct copy of this joint motion to be e-mailed to the Union's counsel, David Huffman-Gottschling, at DavidHG@jbosh.com, and to the Regional Director's Representative, J. Edward Castillo, at edward.castillo@nlrb.gov, on this 25th day of May, 2011.

By: s/Brian M. Stolzenbach