

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
FOURTH REGION**

ARAMARK SPORTS, LLC

Employer

and

PENNSYLVANIA CONVENTION CENTER  
SERVICE EMPLOYEES UNION

Case 4-RC-021685

Petitioner

and

PHILADELPHIA JOINT BOARD  
WORKERS UNITED, A/W SEIU

Union Involved

**HEARING OFFICER'S REPORT ON OBJECTIONS TO ELECTION**

MARY R. LEACH, Hearing Officer: Pursuant to a Supplemental Decision on Objections to Second Election and Notice of Hearing issued by the Acting Regional Director for Region 4 on July 25, 2011, I conducted a hearing in this matter on August 17, 2011 in Philadelphia, Pennsylvania.

The Objections filed in this case arose from a second secret ballot election conducted on June 16 and 17, 2011 in accordance with a Decision, Order and Direction of Second Election issued by the Board on April 18, 2011.<sup>1</sup>

---

<sup>1</sup> The unit included all cooks, stewards, pantry employees, head pantry employees, pastry employees, kitchen utility/dishwashers and porters, banquet servers, runners, Java City attendant, stand manager/cashiers, concession workers, warehouse employees, cash bartenders, cash cocktails, set up employees, coffee/attendants, buffet attendants, wait staff, including head waiters, captains, and wait staff working at breakfast, lunch, dinner, cash bar, hosted bar and cocktail reception (servers) employed by the Employer at the Pennsylvania Convention Center in Philadelphia, Pennsylvania who met certain eligibility criteria, and excluded all other employees, office employees, clerical employees, professional employees, maintenance employees, guards and supervisors as defined in the Act.

Approximately 161 employees were eligible to vote in the June 16 and 17 Election. The Union Involved received 75 votes, the Petitioner received 50 votes, no votes were cast against the participating labor organizations, and there were three challenged ballots, which were not determinative of the results of the election. On June 24, 2011, the Petitioner filed seven timely Objections to the election. The Acting Regional Director's Supplemental Decision concluded that Objections 3, 5, 6, and 7 lacked merit and recommended that those Objections be overruled. The Supplemental Decision also concluded that Objections 1, 2, and 4 raised substantial and material issues of fact warranting a hearing, and set those Objections for hearing before me. The record does not reflect whether a request for review was filed concerning the recommendation to overrule Objections 3, 5, 6, and 7, or whether the Board has taken any action concerning those Objections.

Pursuant to the Notice of Hearing, the hearing was held for the purpose of taking testimony to resolve the substantial and material issues of fact concerning Objections 1, 2, and 4. However, neither the Petitioner, nor any representative of the Petitioner, appeared at the hearing. Accordingly, for the reasons set forth below, I recommend that Objections 1, 2, and 4 be overruled.

### THE OBJECTIONS

Objection 1 alleges that the Union Involved threatened employees with loss of pension and health benefits if they voted for the Petitioner. Objection 2 alleges that the Union Involved promised employees a wage increase if the Union Involved won the election. Finally, Objection 4 alleges that Ernest Chester, a statutory supervisor, engaged in coercive conduct toward employees that affected the outcome of the election.

### FACTS

On August 7, 2011 the Petitioner requested, in writing, that the hearing be postponed stating, "We (the Petitioner) are in need of more time, our witnesses, as well as, our legal advisors are reporting that they are currently on or will be on vacation during that time." The Employer and Union Involved objected to the postponement request. On August 11, 2011, the Regional Director issued an order denying the postponement request without prejudice to the Petitioner's "right to renew its request, and explain the need for a continuance from the Hearing Officer following its presentation of available evidence and witnesses." Although it had the right under the Regional Director's Order to appear at the hearing and renew its request, it simply failed to appear at the August 17, 2011 hearing and therefore, presented no evidence in support of its Objections.

## DISCUSSION

As the objecting party, the Petitioner has the burden of coming forward with specific evidence to support its objections. *Jewish Home for the Elderly*, 343 NLRB 1069, 1115 (2004); *Waste Management of Northeast Louisiana*, 326 NLRB 1389 (1998); and *Hudson Oxygen Therapy Sales Company*, 268 NLRB 1374, 1375 (1984). Even though the Regional Director denied the Petitioner's postponement request, the Petitioner was explicitly given the right to renew its request at the hearing and further explain the need for a continuance, but it did not.<sup>2</sup> Inasmuch as no evidence was presented in support of these Objections, I conclude that the Petitioner has failed to meet its burden of proof.<sup>3</sup>

---

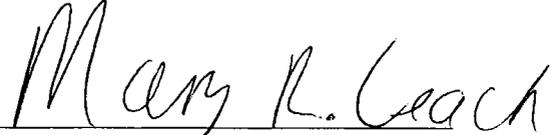
<sup>2</sup> It also did not avail itself of its right under the Board's Rules to seek Board review of the Regional Director's Order denying the postponement request.

<sup>3</sup> The Supplemental Decision indicates that the Petitioner submitted evidence in the form of witness statements to the Regional Director. Because those statements were not before me and are not part of the record for purposes of deciding the Objections, I have not considered them. Pursuant to Section 102.69(g)(1)(i) of the Board's Rules and Regulations, the record consists only of the notice of hearing, motions, rulings, orders, stenographic report of the hearing, stipulations, and exhibits, along with the objections to the conduct of the election or to conduct affecting the results of the election, any report on such objections, any report on challenged ballots, exceptions to any such report, and any briefs or other legal memoranda submitted by the parties. See also *Riveredge Hospital and Warehouse*, 274 NLRB 900 (1985), *affd.* 789 F.2d 524, 533 (7<sup>th</sup> Cir., 1986)

CONCLUSION and RECOMMENDED ORDER

In accordance with the above, I recommend that Objections 1, 2, and 4 be overruled.<sup>4</sup>

Signed at Philadelphia, Pennsylvania, this 12<sup>th</sup> day of September, 2011.



MARY R. LEACH  
Hearing Officer, Fourth Region  
National Labor Relations Board

---

<sup>4</sup> Pursuant to the provisions of Section 102.69 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, exceptions to this Report may be filed with the Executive Secretary, National Labor Relations Board, 1099 14<sup>th</sup> Street, N.W., Washington, DC 20570-0001.

Pursuant to the Board's Rules and Regulations, Sections 102.111 – 102.114, concerning the Service and Filing of Papers, the exceptions must be received by the Executive Secretary of the Board in Washington, DC by the close of business on **September 26, 2011**, at 5:00 p.m. (ET), unless filed electronically. **Consistent with the Agency's E-Government initiative, parties are encouraged to file a request for review electronically.** If the exceptions are filed electronically, the exception will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time** on the due date. Please be advised that Section 102.114 of the Board's Rules and Regulations precludes acceptance of exceptions by facsimile transmission. Upon good cause shown, the Board may grant special permission for longer period within which to file. A copy of the exceptions must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Filing exceptions electronically may be accomplished by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on File Case Documents, enter the NLRB Case Number, and follow the detailed instruction. The responsibility for the receipt of the exceptions rests exclusively with the sender. A failure to timely file the exceptions will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.