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8 **UNITED STATES OF AMERICA**
9 **BEFORE THE NATIONAL LABOR RELATIONS BOARD**
10 **REGION 31**

11
12 MADISON PROJECT/THE BROAD STAGE,

13 Employer,

14 vs.

15 LOCAL 857 TREASURERS & TICKET
SELLERS, I.A.T.S.E., M.P.T.A.A.,
16

17 Petitioner.
18

CASE NO. 31-RC-8882

**SANTA MONICA COMMUNITY
COLLEGE DISTRICT'S JOINDER IN
THE MADISON PROJECT'S
OPPOSITION TO REQUEST FOR
REVIEW**

19 Party in interest, Santa Monica Community College District (hereinafter "SMC"), pursuant
20 to section 102.67 of the Rules and Regulations of the National Labor Relations Board, hereby
21 joins the Madison Project's Opposition to Petitioner's Request for Review. SMC, as a practical
22 matter, fully supports the arguments and reasons contained in the Madison Project's Opposition
23 and independently further contends that Petitioner's Request for Review does not satisfy the legal
24 standards to support a proper request for review.

25 Petitioner does not meet the standard for a request for review pursuant to section 102.67(c)
26 of the Rules and Regulations of the National Labor Relations Board. The Board will only grant a
27 request for review where there are compelling reasons and upon the following grounds:

28 1) That a substantial question of law or policy is raised because of i) the absence of, or ii) a

1 departure from, officially reported Board precedent;

2 2) That the Regional Director's decision on a substantial factual issue is clearly erroneous
3 on the record and such error prejudicially affects the rights of a party;

4 3) That the conduct of the hearing or any ruling made in connection with the proceeding
5 has resulted in prejudicial error;

6 4) That there are compelling reasons for reconsideration of an important Board rule or
7 policy. (Rules and Regulations of the National Labor Relations Board § 102.67(c)).

8 First, Petitioner fails to show that there is a compelling reason for a request for review and
9 Petitioner fails to meet the standards for a request for review. Secondly, Petitioner restates
10 previous arguments and does not offer any new arguments or valid reasons to grant the request for
11 review.

12 At the hearing and through post-hearing briefs, the employer Madison Project ("MP")
13 established that it is, indeed, a political subdivision, exempt from the Board's jurisdiction. (29
14 U.S.C. §152(2)). Section 2(2) of the Act provides that the term "employer" excludes any State or
15 political subdivision. An entity is a political subdivision if it is *either* 1) created directly by the
16 state, so as to constitute a department or administrative arm of the government, *or* 2) administered
17 by individuals who are responsible to public officials or to the general electorate. *NLRB v.*
18 *Natural Gas Utility Dist. of Hawkins County*, 402 U.S. 600, 604-605 (1971).

19 The Board agreed that MP satisfied the second prong of the *Hawkins* test because the
20 evidence showed that MP is administered by individuals who are responsible to public officials.
21 All of MP's directors are appointed by, and subject to removal by SMC's President, who is in turn
22 subject to removal by SMC's publicly elected Board of Trustees. Also, SMC exercises a
23 substantial degree of control over MP's daily operations and the individual responsible for MP's
24 daily operations is a SMC employee and receives compensation directly from SMC.

25 The evidence established, and the Board determined, that MP is administered by
26 individuals who are responsible to public officials, and MP is, consequently, a political
27 subdivision exempt from jurisdiction of the Board. Petitioner does not dispute these facts, does
28 not overcome the argument that MP is exempt, and does not meet the legal standard for a request

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1 for review.

2 For the above reasons, the SMC respectfully requests that Petitioner's Request for Review
3 be denied.

4 DATED: September 16, 2011

Respectfully submitted,

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FAGEN FRIEDMAN & FULFROST, LLP

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By: Brian D. Bock

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Brian D. Bock

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Attorneys for Party in Interest, Santa Monica
Community College District

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 6300 Wilshire Boulevard, Suite 1700, Los Angeles, California 90048.

On September 16, 2011, I served the following document(s) described as **SANTA MONICA COMMUNITY COLLEGE DISTRICT'S JOINDER IN THE MADISION PROJECT'S OPPOSITION TO REQUEST FOR REVIEW** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Fagen Friedman & Fulfrost's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL AND/OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address athames@fagenfriedman.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

BY EXPRESS MAIL: I enclosed said document(s) in an envelope or package provided by the United States Postal Service and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of .

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 16, 2011, at Los Angeles, California.



Aleta Thames

**SERVICE LIST
NLRB Madison Project
NLRB Case No. 31-RC-8882**

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Via Electronic Transmission

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