

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

IN THE MATTER OF:

PROPPANT SPECIALISTS, LLC,

EMPLOYER,

-and-

CASE NO. 30-RC-6783

INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL 139, AFL-CIO,

PETITIONER.

**EMPLOYER'S EXCEPTIONS TO THE HEARING OFFICER'S REPORT ON
CHALLENGED BALLOTS AND OBJECTIONS WITH RECOMMENDATIONS**

Pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board ("Board"), the Employer, Proppant Specialists, LLC, ("Employer"), by and through its undersigned counsel, hereby files Employer's Exceptions to the Hearing Officer's Report on Challenged Ballots and Objections with Recommendations ("Report") issued on November 3, 2011, for the following reasons:

1. The Hearing Officer erred in finding that Ralea Rainey is an office clerical employee, and not a plant clerical employee, whose vote should be excluded from the unit. (Report at 3.)
2. The Hearing Officer erred in finding that Barrett Oliver is not a Section 2(11) supervisor whose vote should not be excluded from the unit. (Report at 3-4.)
3. The Hearing Officer erred in failing to sustain the Employer's Objection 1 because Barrett Oliver, as a statutory supervisor or an individual closely identified

with management, ignored the warning of the Board Agent and served as Petitioner's election observer and otherwise coerced eligible voters into supporting Petitioner and/or interfered with the eligible voters' freedom of choice through his pre-election conduct. (Report at 4.)

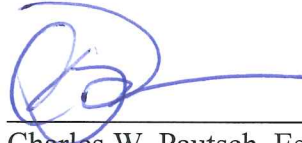
4. The Hearing Officer erred in failing to sustain the Employer's Objection 2 because Petitioner coerced eligible voters and otherwise destroyed the "laboratory conditions" necessary for a fair election by electioneering in the voting area when Barrett Oliver, a statutory supervisor or an individual closely identified with management, wore Petitioner's insignia while acting as the Petitioner's election observer. (Report at 4.)
5. The Hearing Officer erred in failing to sustain the Employer's Objection 3 because Petitioner coerced eligible voters and otherwise destroyed the "laboratory conditions" necessary for a fair election by, during the voting period, electioneering in the voting area and creating an atmosphere of surveillance by, in part, displaying large yard signs supporting Petitioner at a private residence directly across the street from the polling place. (Report at 4.)

Accordingly, for the foregoing reasons, and the reasons set forth in the Employer's Brief in Support of Exceptions to Hearing Officer's Report on Challenged Ballots and Objections with Recommendations, the Employer respectfully requests that the Hearing Officer's recommendations regarding the challenge of Ralea Rainey should be overruled because she should be included in the unit of eligible employees; the challenge of Barrett Oliver should

be overruled because he should not be included in the unit of eligible employees, and all of the Employer's Objections should be sustained and the election set aside.

Dated: November 23, 2011

Respectfully submitted,



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PROPPANT SPECIALISTS, LLC**

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CERTIFICATE OF SERVICE

I, Jesse R. Dill, certify that on November 23, 2011, I caused to be filed in the above-captioned matter via electronic filing with the National Labor Relations Board a copy of **EMPLOYER'S EXCEPTIONS TO HEARING OFFICER'S REPORT ON CHALLENGED BALLOTS AND OBJECTIONS WITH RECOMMENDATIONS.**

One copy of the above document is also being sent via U.S. Mail, proper postage paid, to Pasquale Fioretto, Esq., Baum Sigman Auerbach & Neuman, Ltd., 200 West Adams Street, Suite 2200, Chicago, IL 60606.



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