

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

UNITED STATES INFRASTRUCTURE)
CORPORATION (USIC),)

Employer,)

and)

RALPH FINLEY, An Individual,)

Petitioner,)

and)

COMMUNICATIONS WORKERS OF)
AMERICA, LOCAL 3682,)

Union.)

CASE NO. 11-RD-000732

BRIEF IN SUPPORT OF EXCEPTIONS TO REPORT AND RECOMMENDATIONS
ON CHALLENGED BALLOTS

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**BRIEF IN SUPPORT OF EXCEPTIONS TO REPORT AND RECOMMENDATIONS
ON CHALLENGED BALLOTS**

I. STATEMENT OF THE CASE

A. Procedural History And The Ballot Challenges

On August 26, 2011, the Region 11 Acting Regional Director ("ARD") approved a Stipulated Election Agreement in the above-captioned matter. *Report*, p. 1.¹ On September 6, 2011, the Employer timely submitted to the Region the *Excelsior* list for a stipulated election in the above-captioned matter. *Ex. 1*, p. 1² Bass and Grizzard each provided their mailing address to USIC and USIC provided their respective mailing addresses to the Region when it submitted its *Excelsior* list. *Id.* at p. 2, fn 2. Bass and Grizzard submitted to USIC the same mailing

¹ The Report and Recommendations on Challenged Ballots is cited as "*Report*, p." followed by citation to page number(s).

² The Employer's October 11, 2011 Statement of Position to the Acting Regional Director is cited as "*Ex. 1*, p." followed by citation to page number(s), and is attached hereto.

address, which was a post office box. *Report*, p. 2; *Ex. 1*, p. 2, fn 2. Upon information and belief, Grizzard is Bass's father. *Ex. 1*, p. 2, fn 2.

According to Board Agent Jacqueline Jones' ("Jones"), who conducted the mail ballot count, the Region assigned to each name listed on the *Excelsior* list a number that coincided with its order on the *Excelsior* list. *Ex. 1*, p. 1. According to Jones, it assigned the number "6" to Erin Bass ("Bass") and the number "46" to Maurice Grizzard ("Grizzard"), which numbers will be referred to herein as "Key Numbers." *Id.*

According to Jones and consistent with established Board procedure, the Region mailed mail ballot packages to each of the individuals on the *Excelsior* list, including Bass and Grizzard. *Id.* at pp. 1-2. The Region included in each of those packets a pre-addressed yellow outer envelope on which the Region imprinted the intended recipient's corresponding Key Number. *Id.* at p. 2. The instructions included in the packet required each voter to (1) mark the ballot contained in the mail ballot packet the Region mailed to that employee, (2) insert it in the blue envelope included in the mail ballot packet the Region mailed to that employee, (3) place the blue envelope into the Key Numbered outer yellow envelope the Region mailed to that employee, (4) sign the Key Numbered outer envelope included in the mail ballot packet the Region mailed to that employee, and (5) mail or hand deliver the signed Key Numbered envelope to the Regional Office. *Id.* at 4.

On September 28, 2011, a secret ballot ballot count was held under the ARD's supervision among the following employees:

All full-time and regular part-time utility locators employed by the Employer in the State of North Carolina; but excluding all other employees, professional employees, confidential secretaries, supervising clerks, and guards and supervisors as defined by the Act.

Report, p. 1, 2.

The Employer challenged the ballot in the yellow outer envelope bearing Bass's Key Number ("Ballot No. 6") because the signature it bore did not reasonably appear to be Bass's signature. *Ex. 1*, p. 2. The Employer also challenged the ballot in the yellow outer envelope bearing Grizzard's Key Number ("Ballot No. 46"), because the signature it bore did not reasonably appear to be Grizzard's signature. *Id.* The Employer's counsel specifically stated the Employer was challenging each of these ballots because the "name and number don't match." *Id.* Jones stated she believed that, based on her own observation, the yellow outer envelope marked "6" bore Grizzard's signature and the yellow outer envelope marked "46" bore Bass's signature and because, according to the *Excelsior* list, Bass and Grizzard share the same post office box address, she speculated that they must have returned their respective ballots in the "wrong envelope." *Ex. 1*, p. 2, fn 1. While Jones wrote, "returned wrong envelope" on each of the challenged yellow outer envelopes, the Employer's representative did not offer such explanation as the Employer's "Reason for Challenge." *Id.*

A Tally of Ballots was prepared, which shows the following results:

| | |
|---|-----|
| Approximate number of eligible voters | 144 |
| Number of Void ballots | 5 |
| Number of Votes cast for the Communication Workers of America, Local 3682 | 53 |
| Number of Votes cast against participating labor organization(s) | 54 |
| Number of Valid votes counted | 107 |
| Number of Challenged ballots | 2 |
| Number of Valid votes counted plus challenged ballots | 109 |

Report, p. 1.

Because the challenged ballots are determinative of the results of the election, the ARD caused an investigation of the challenged ballots to be made during which all parties were offered the opportunity to present evidence on the issues involved. *Id.* On October 11, 2011, the

Employer timely submitted to the ARD its Statement of Position in support of its ballot challenges. *Ex. 1.*

On December 6, 2011, the ARD issued "Report and Recommendations on Challenged Ballots" in the above-captioned matter, overruling both challenges. *Report*, pp. 1-6. Pursuant to Section 102.69 of the Board's Rules, United States Infrastructure Corporation ("USIC" or the "Employer"), by counsel, files its Brief in Support of Exceptions to Report and Recommendations On Challenged Ballots ("Exceptions").

II. ISSUES

- A. Did the ARD properly overrule the Employer's challenge to Ballot No. 6 when the Regional Office assigned Key Number 6 to Erin Bass's name, but the signature and printed name on Ballot No. 6's outer yellow envelope is not Bass's name and, thus the individual who completed the outer yellow envelope did not comply with the Board's secret ballot mail ballot instructions?**

This issue relates to exceptions no. 1-35, 37-75.

- B. Did the ARD properly overrule the Employer's challenge to Ballot No. 46 when the Regional Office assigned Key Number 46 to Maurice Grizzard's name, but the signature and printed name on Ballot No. 46's outer yellow envelope is not Grizzard's name and, thus the individual who completed the outer yellow envelope did not comply with the Board's secret ballot mail ballot instructions?**

This issue relates to exceptions no. 1-34, 36-75.

III. ARGUMENT

A. The ARD Improperly Relies On *Space Mark, Inc.* To Overrule The Ballot Challenges

The ARD bases her decision to overrule the Employer's objections on one case, *Space Mark, Inc.*, 325 NLRB 1140 (1998). In *Space Mark*, the employer challenged a ballot on the ground that the eligible voter had submitted two ballots. *Id.* at 1141. The Region conducted a hearing, at which the eligible voter testified that he had been working at an Alaskan outpost when the mail ballot was mailed to his Utah home. *Id.* The eligible voter further testified that he instructed his wife, who had a general power of attorney, to complete his ballot and mail it in because he feared that if she mailed the voter packet to him he would not receive it in time to complete it and return it by the deadline. *Id.* The eligible voter then informed the Resident Office that his wife had completed his ballot, stated that the Employer had erred in providing to the Resident Office his Utah address, and requested a duplicate mail ballot kit, which was sent to the eligible voter in Alaska. *Id.* at 1141-42.

The Resident Office first received the original ballot, which the eligible voter's wife had completed, and then received the duplicate ballot, which the eligible voter had completed. *Id.* at 1142. At the ballot count, the parties agreed to void the first ballot. *Id.* The employer challenged the second ballot on the ground that it was the eligible voter's second ballot and the Board's Casehandling Manual specifies that, when two ballots are received from the same voter, the first ballot should be counted. *Id.* The employer cited Section 11336.4 of the Casehandling Manual, which states:

[I]n the event both the original and the duplicate envelopes are received from the employee to whom the duplicate was mailed, only the ballot in the envelope having the earliest postmark should be counted. In the event postmarks are not discernible, only the envelope bearing the earliest date stamp should be counted. In the event two ballots are received in one envelope the voter's ballots

should be challenged. If the parties agree, only one of the ballots may be counted providing secrecy can be maintained.

Id.

The Board found that the foregoing facts concerning what had occurred with the two ballots at issue were undisputed and noted that the eligible voter "clearly could not have completed the first ballot, which was completed and signed by his wife." *Id.* The Board then concluded that the first ballot was properly voided and, based on the facts gleaned at hearing, "the second ballot was the only ballot actually completed by [eligible voter], and it should be opened and counted." *Id.*

The facts in *Space Mark* are inapposite to those in our case in two important respects. In *Space Mark*, unlike in our case (1) there was no question that the eligible voter completed the challenged ballot, and (2) the disputed ballot was completed in full accordance with the mail ballot instructions. Both of these facts are critical distinctions, as they assuage any concerns that the laboratory conditions were destroyed due to lack of Board supervision over the employees' voting.

Nonetheless, based on her analysis of this case alone, the ARD held that the Board had "sanctioned a deviation from the requirements of the Casehandling Manual in a duplicate ballot situation when it permitted the second mail ballot received from a voter to be counted, rather than the ballot received first." *Report*, p. 4. She further asserted that, while the Board did not specify the rationale for "countermanding" the Casehandling Manual guidelines, "the Board implicitly applied a rule of reason to the unique facts of the case." *Id.*

The ARD incorrectly analyzes the basis for the Board's *Space Mark* holding, as the Board did not deviate from nor countermand the Casehandling Manual, but rather, properly recognized it was inapplicable to the facts. After pointing out the employer's reliance on Section 11336.4 of the Casehandling Manual, the Board emphasized that it received the first ballot from

the eligible voter's wife, not from the eligible voter, and it was properly voided. *Space Mark*, 325 NLRB at 1142. Thus, the Board properly did not apply the Casehandling Manual section to which the employer referred because it pertains to different circumstances -- those that exist only when both the original and duplicate envelopes are "received from the employee to whom the duplicate was mailed." *Casehandling Manual*, Section 11336.4. Accordingly, the ARD's determination that the *Space Mark* Board deviated from and countermanded the Casehandling Manual guidelines is inaccurate and must be disregarded.

The ARD further asserts that the *Space Mark* Board "expressed no concerns about delving into the unique facts and circumstances surrounding submission of the duplicate mail ballots, which involved the actions of a voter and his non-voting spouse." *Report*, p. 4. This statement fails to recognize that Board rules provide for challenged ballot hearings to be conducted to obtain information concerning disputed issues, where necessarily one would delve into the unique facts and circumstances related to the ballot challenges. *Board Rules and Regulations* Section 102.69. In *Space Mark*, the Board merely explained that it based its decision on facts gleaned at the challenged ballot hearing. *Space Mark*, 325 NLRB at 1142.

The ARD also opines that it "appears" that "the Board has found that some inquiry into the circumstances surrounding the deviation may be appropriate, so long as there is no opportunity for coercion or confusion in that process." *Report*, p. 4. She further states that, "when evaluating situations in which there have been deviations from specified mail ballot procedures, the Board does not invariably apply a per se rule. *Id.* The ARD cites no legal authority to support this conclusion other than *Space Mark*, which, as previously discussed, fails to support this assertion. Compounding her error, the ARD, based on these unsupported

conclusions, determines that that she may use a "rule of reason" rather than a per se rule to decide this case. *Report*, p. 4. There simply is no Board authority to support the ARD's position.

B. Board Law Strictly Enforces Its Mail Ballot Identification Measures To Protect the Mail Ballot System's Integrity

To protect the integrity of the mail ballot system, the Board strictly enforces its mail ballot identification measures. "The danger that the laboratory conditions surrounding an election may be destroyed are greater in mail balloting situations than in manual elections because of the absence of direct Board supervision over the employees' voting." *Brink's Armored Car*, 278 NLRB 141 (1986). In *Brinks*, the Board stated that if an individual had picked up a mail ballot from the Region's office on an eligible voter's behalf, "the Board would have had no way of determining with any degree of certainty that [the intended recipient] was the one who received the ballot and ultimately voted it." *Id.* The Board explained that, in such circumstances, the normal presumption of accurate mail delivery or personal delivery at a Regional Office to a voter with proper identification would not have been available. *Id.*

Even if, as Jones speculated and the ARD apparently has decided (without citation to substantiating evidence), Bass and Grizzard switched their respective numbered outer yellow envelopes, under *Brinks*, this act destroyed the laboratory conditions with respect to the challenged ballots. *Brinks* makes clear that a ballot should be voided whenever someone other than the eligible voter touches the outer envelope, regardless of whether someone other than the eligible voter touches the ballot inside. *Id.* In our case, the laboratory conditions were destroyed because someone other than the eligible voter touched the outer envelopes of Ballot Nos. 6 and 46.

Further, as in *Brinks*, we cannot rely upon the normal presumption of accurate mail delivery since the challenged ballots properly were mailed to the same address. Thus, we

must rely upon proper identification. Voters in this election had just one means by which they could present proper identification to the Board – placing their signature on the yellow outer envelope bearing their assigned Key Number. But neither of the envelopes bear the signature of the individual assigned the respective Key Number. These ballots, therefore, lack the requisite safeguards to ensure the designated eligible voters cast them.

Section 11340.4 (e) of the NLRB Casehandling Manual further provides strict safeguards to the election process, stating that "Only a Board agent will touch any ballot, even if the ballot drops to the floor." While Board mail ballot procedures contemplate that postal service workers will touch mail ballot envelopes deposited into the U.S. mail for delivery to the Regional Office, they do not contemplate that anyone else will do so. Certainly, they do not contemplate that individuals other than the eligible voters assigned the corresponding Key Numbers would sign the ballots' outer envelopes.

There is no reasonable doubt that Bass' signature is not on Ballot No. 6 or that Grizzard's signature is not on Ballot No. 46. The Employer presented to the ARD copies of documents from Bass's and Grizzard's respective personnel files and copies of documents bearing both individual's signatures. *Ex. 1*, Exhibits 1-3. These documents make apparent that Bass did not sign Ballot No. 6 and Grizzard did not sign Ballot No. 46. In fact, it appears that someone other than Bass signed, and thus necessarily touched, Ballot No. 6 and someone other than Grizzard signed, and thus necessarily touched, Ballot No. 46. Because someone other than Bass signed, and thus touched, Ballot No. 6's outer yellow envelope and someone other than Grizzard signed, and thus touched, Ballot No. 46's outer yellow envelope, there is reasonable doubt that only the correctly designated eligible voter touched the ballot contained therein.

Even if, as the ARD opines, Bass signed Grizzard's outer yellow envelope and vice versa, their acts are as destructive of the laboratory conditions as those that exist when a ballot drops to the floor and someone other than a Board Agent touches it, since the outer yellow envelope is the only means to protect the integrity of the ballot contained therein. Further, the outer yellow envelope is the only means to identify who cast the ballot inside. Identifying voters is a fundamental purpose of election observers, whose job is to ensure the individual requesting a ballot is, indeed, the individual who casts the ballot. NLRB Casehandling Manual §11322.1. In the mail ballot election context, however, there is no election observer. Rather, the Key Number system acts as the only means by which the Region can identify eligible voters and ensure the integrity of the ballots and the election.

C. Established Board Precedent Strictly Enforces Its Mail Ballot Identification Measures To Protect The Integrity Of The Mail Ballot System

The Board historically has taken seriously the importance of protecting the integrity of the mail ballot system by enforcing its mail ballot identification measures. For example, in *Thompson Roofing, Inc.*, 291 NLRB 743-44, (1988), the Board voided a ballot because the voter printed, rather than signed, his name on the ballot, explaining, "[t]he Board has adopted specific procedures for mail ballot elections to preserve the integrity of the election process. These procedures, including the pertinent instructions here that voters sign and not print their names on the ballot envelope, are necessary because mail ballot elections are more vulnerable to the destruction of laboratory conditions than are manual elections because of the absence of direct Board supervision over the employees' voting."

The employer, who challenged the Board's decision to void the ballot, argued that "at the heart of the Act is an employee's right to vote in a representation election and that absent evidence of fraud or other types of ineligibility a voter should not be disenfranchised for the

reason at issue." *Id.* Nonetheless, even after acknowledging there was no evidence of fraud, nor any doubt that the ballot was, in fact, the ballot of the individual whose name was printed on the envelope, the Board sustained the challenge. *Id.* The Board relied on the specific instructions accompanying the mail ballot packets the Region mailed to the eligible voters, which stated that voters were to sign and not print their names on the outside of the envelope. *Id.* In discussing Casehandling Manual Section 11336.4, the Board noted that ballots returned in envelopes with no signature similarly must be voided. *Id.*

Applying *Thompson Roofing* to our facts, the Board procedures, adopted specifically to preserve the integrity of the election process, included the pertinent instructions that the voter was to insert their completed ballot into the Key Numbered outer yellow envelope and sign the Key Numbered outer yellow envelope before mailing or hand delivering it to the Regional Office. *Ex. 1*, p. 2. Such instructions, like those in *Brinks* directing the voters to sign, not print, their names, are necessary because of the particular vulnerability to the destruction of laboratory conditions because of the "absence of direct Board supervision over the employees' voting." *Brinks*, 291 NLRB at 744. Moreover, Bass's and Grizzard's failure to follow the mail ballot instructions are far more egregious than the *Brinks* voter's printed, rather than signed, name on the ballot envelope, as there was no question who cast the ballot inside the *Brinks* voter's envelope, while one can only speculate as to who cast Ballot Nos. 6 and 46. Our circumstances are more similar to those instances when, as also discussed in *Brinks*, the Board voids a ballot because the outer envelope is unsigned as, in both circumstances, one may only speculate as to who actually cast the ballot inside.

Finally, in *Mission Industries*, 283 NLRB 1027 (1987), the Board took a similarly strict approach to enforcing its mail ballot procedure, sustaining a challenge where the

identification stub of each mail ballot envelope bore the voter's signature and Key Number but, when the challenged mail ballot arrived at the Regional Office in the official envelope, the identification stub was missing. The Board refused to entertain evidence of who actually cast the ballot with the missing identification stub. *Id.*

As in *Mission Industries*, permitting inquiry into the source of Ballot No. 6 and Ballot No. 46, which lack the signature of the eligible voters to whom the Region assigned these Key Numbers, raises a reasonable doubt concerning whether only eligible voters participated in the election and whether each of those eligible voters cast only one ballot. In addition, as in *Mission Industries*, permitting inquiry into the source of Ballot No. 6 and Ballot No. 46, would greatly increase the potential for confusion and coercion and would be unlikely to dispel the reasonable doubt concerning the validity of these ballots.

IV. CONCLUSION

The Regional Office specifically instructed the individuals to whom it had assigned Ballot No. 6 and Ballot No. 46 to follow the Board's secret ballot mail ballot instructions, which they undisputedly failed to do. The Board has instituted these specific instructions to ensure the integrity of the mail ballot system and, to that end, it consistently sustains challenges to ballots where the instructions have not been strictly followed.

For the foregoing reasons, the Board should sustain the Employer's challenges to
Ballot Nos. 6 and 46.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December, 2011, a true and correct copy of the foregoing document was served via email to the following parties of record and the Acting Regional Director:

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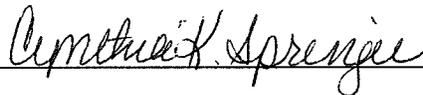


EXHIBIT 1

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October 11, 2011

VIA ELECTRONIC MAIL (NANCY.WILSON@NLRB.GOV)
AND VIA E-GOV

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Re: United States Infrastructure Corp. (USIC)
Case 11-RD-000732

Dear Ms. Wilson:

Please treat this letter as the Statement of Position of United States Infrastructure Corporation ("USIC" or "Employer") with respect to Case No. 11-RD-000732 concerning two ballots it challenged during the conduct of the September 28, 2011 mail ballot election held pursuant to the decertification petition Petitioner Ralph Finley ("Petitioner") filed against Communication Workers of America, AFL-CIO ("Union"). USIC reserves the right to supplement this Position Statement regarding all matters pertaining to the above-referenced petition.

Following is USIC's evidence and legal support for its ballot challenges:

I. STATEMENT OF RELEVANT FACTS

On September 6, 2011, the Employer timely submitted to the Region the *Excelsior* list for the above-referenced stipulated decertification election. Pursuant to established Board procedure and upon information and belief (based on the explanation Jacqueline Jones ("Jones"), the Board Agent who conducted the mail ballot count, provided at the mail ballot count), the Region assigned to each name listed on the *Excelsior* list a number that coincided with its order on the *Excelsior* list. Thus, according to Jones, and as relevant here, it assigned the number "6" to Erin Bass ("Bass") and the number "46" to Maurice Lee Grizzard ("Grizzard"), which numbers we hereafter will refer to as "Key Numbers." According to Jones and consistent with established Board procedure, the Region mailed mail ballot packages to each of the individuals on the

Excelsior list, including Bass and Grizzard. The Region included in each of those packets a pre-addressed yellow outer envelope on which the Region imprinted the intended recipient's corresponding Key Number. The instructions included in the packet directed the voters to insert their completed ballot into the pre-addressed yellow outer envelope and sign the attestation included on the envelope before mailing the envelope to the Regional Office.

The Employer challenged the ballot in the yellow outer envelope bearing Bass's Key Number ("Ballot No. 6") because the signature it bore did not reasonably appear to be Bass's signature. The Employer also challenged the ballot in the yellow outer envelope bearing Grizzard's Key Number ("Ballot No. 46"), because the signature it bore did not reasonably appear to be Grizzard's signature. The undersigned specifically stated the Employer was challenging each of these ballots because the "name and number don't match."¹

II. DISCUSSION

A. Counting The Challenged Ballots Would Destroy The Integrity Of The Mail Ballot Election Procedure Because The Ballots Lack The Requisite Safeguards And Thus Destroy The Laboratory Conditions.

The Region should sustain the Employer's challenges to Ballot No. 6 and Ballot No. 46. "The danger that the laboratory conditions surrounding an election may be destroyed are greater in mail balloting situations than in manual elections because of the absence of direct Board supervision over the employees' voting." *Brink's Armored Car*, 278 NLRB 141 (1986). In *Brinks*, the Board stated that if an individual had picked up a mail ballot from the Region's office on an eligible voter's behalf, "the Board would have had no way of determining with any degree of certainty that [the intended recipient] was the one who received the ballot and ultimately voted it." *Id.* The Board explained that, in such circumstances, the normal presumption of accurate mail delivery or personal delivery at a Regional Office to a voter with proper identification would not have been available. *Id.*

This case presents an even direr example of the laboratory condition-destroying dangers inherent in mail ballot elections due to the lack of Board supervision. In our case, we cannot rely upon the normal presumption of accurate mail delivery since the challenged ballots properly were mailed to the same address.² Thus, we must rely upon proper identification. Voters in this

¹ Jones stated she believed that, based on her own observation, the yellow outer envelope marked "6" bore Grizzard's signature and the yellow outer envelope marked "46" bore Bass's signature and because, according to the *Excelsior* list, Bass and Grizzard share the same post office box address, she speculated that they must have returned their respective ballots in the "wrong envelope." While Jones wrote, "returned wrong envelope" on each of the challenged yellow envelopes, contrary to the "Reason for Challenge" listed in your September 28, 2011 letter, the undersigned did not offer such explanation as the Employer's "Reason for Challenge."

² Bass and Grizzard each provided their mailing address to USIC and USIC provided their respective mailing addresses to the Region when it submitted its *Excelsior* list. As it turns out, Bass and Grizzard submitted to USIC the same mailing address. Upon information and belief, Grizzard is Bass's father.

election had just one means by which they could present proper identification to the Board – placing their signature on the yellow envelope bearing their assigned Key Number. But neither of the envelopes bear the signature of the individual assigned the respective Key Number. These ballots, therefore, lack the requisite safeguards to ensure the designated eligible voters cast them.

Even if, as Johnson speculates and the Union likely will argue, Bass and Grizzard switched their respective numbered envelopes, this act destroyed the laboratory conditions with respect to the challenged ballots. Section 11340.4 (e) of the NLRB Case Handling Manual states that "Only a Board agent will touch any ballot, even if the ballot drops to the floor." While Board mail ballot procedures contemplate that postal service workers will touch mail ballot envelopes deposited into the U.S. mail for delivery to the Regional Office, they do not contemplate that anyone else will do so. Certainly, they do not contemplate that individuals other than the eligible voters assigned the corresponding Key Numbers would complete and sign the ballots. Attached as **Exhibit 1** are copies of documents from Bass's personnel records bearing her signature. Attached as **Exhibit 2** are copies of documents from Grizzard's personnel records bearing his signature. Attached as **Exhibit 3** are copies of documents bearing both Bass's and Grizzard's signatures. These documents make apparent that Bass did not sign Ballot No. 6 and Grizzard did not sign Ballot No. 46. In fact, it appears that Bass signed, and thus touched, Grizzard's mail ballot envelope and vice versa. Accordingly, Bass's and Grizzard's acts destroyed the laboratory conditions with respect to Ballot No. 6 and Ballot No. 46.

By way of analogy and example, had Bass, in a non-mail ballot election, offered Grizzard's name to the election observers, the Employer's observer properly would have challenged Bass's ballot, even though Bass's name was on the *Excelsior* list. Identifying voters is a fundamental purpose of election observers, whose job is to ensure the individual requesting a ballot is, indeed, the individual who casts the ballot. NLRB Casehandling Manual §11322.1. In the mail ballot election context, however, there is no election observer. Rather, the Board has devised a Key Number system whereby the Region assigns each *Excelsior* list name a corresponding number and the person to whom that number has been assigned is mailed and must sign and return the ballot envelope bearing that Key Number. This system acts as the only means by which the Region can identify eligible voters and ensure the integrity of the ballots and the election. The Regional Director must abide by this sole safeguard to the mail ballot election system.

B. Established Board Precedent Strictly Enforces Its Mail Ballot Identification Measures To Protect The Integrity Of The Mail Ballot System.

The Board historically has taken seriously the importance of protecting the integrity of the mail ballot system by enforcing its mail ballot identification measures. For example, in *Thompson Roofing, Inc.*, 291 NLRB 743-44, (1988), the Board voided a ballot because the voter printed, rather than signed, his name on the ballot, explaining, "[t]he Board has adopted specific procedures for mail ballot elections to preserve the integrity of the election process. These procedures, including the pertinent instructions here that voters sign and not print their names on the ballot envelope, are necessary because mail ballot elections are more vulnerable to the

destruction of laboratory conditions than are manual elections because of the absence of direct Board supervision over the employees' voting."

The employer, who challenged the Board's decision to void the ballot, argued that "at the heart of the Act is an employee's right to vote in a representation election and that absent evidence of fraud or other types of ineligibility a voter should not be disenfranchised for the reason at issue." *Id.* Nonetheless, even after acknowledging there was no evidence of fraud, nor any doubt that the ballot was, in fact, the ballot of the individual whose name was printed on the envelope, the Board sustained the challenge. *Id.* The Board relied on the specific instructions accompanying the mail ballot packets the Region mailed to the eligible voters, which stated that voters were to sign and not print their names on the outside of the envelope. *Id.*

See also, Mission Industries, 283 NLRB 1027 (1987) (challenge to ballot sustained where the identification stub of each mail ballot envelope bore the voter's signature and Key Number but, when the challenged mail ballot arrived at the Regional Office in the official envelope, the identification stub was missing.)

C. Established Board Law Necessitates That The Regional Director Sustain The Challenged Ballots To Protect The Integrity Of The Mail Ballot Election Process.

As in *Thompson Roofing*, Bass and Grizzard failed to follow the explicit mail ballot instructions. In our case, the instructions required each voter to (1) mark the ballot contained in the mail ballot packet the Region mailed to that employee, (2) insert it in the blue envelope included in the mail ballot packet the Region mailed to that employee, (3) place the blue envelope into the Key Numbered outer yellow envelope the Region mailed to that employee, (4) sign the Key Numbered outer envelope included in the mail ballot packet the Region mailed to that employee, and (5) mail or hand deliver the signed Key Numbered envelope to the Regional Office.

The individuals mailing Ballot No. 6 and Ballot No. 46 necessarily did not follow these instructions. Ballot No. 6 and Ballot No. 46 do not bear the signatures of the eligible voters to whom the Region assigned these Key Numbers. If they had followed these instructions, they would have signed the envelope bearing the Key Number the Region assigned to them. Thus, as in *Thompson Roofing, Inc.*, the Region must sustain the Employer's challenge because the ballots fail to comply with the Region's mail ballot instructions. In fact, while the *Thompson Roofing* Board refused to count a ballot cast by the correct voter because he merely printed, rather than signed, his name, in our case, there is no evidence that either Bass or Grizzard completed the correct ballot. Thus, the Regional Director must sustain the Employer's challenge to these individuals' ballots, which even more profoundly failed to comply with the Board's established mail ballot instructions.

And, as in *Mission Industries*, permitting inquiry into the source of Ballot No. 6 and Ballot No. 46, which lack the signature of the eligible voters to whom the Region assigned these Key Numbers, raises a reasonable doubt concerning whether only eligible voters participated in

the election and whether each of those eligible voters cast only one ballot. In addition, as in *Mission Industries*, permitting inquiry into the source of Ballot No. 6 and Ballot No. 46, would greatly increase the potential for confusion and coercion and would be unlikely to dispel the reasonable doubt concerning the validity of these ballots.

III. CONCLUSION

The Acting Regional Director should promptly conclude the Region's investigation into the Employer's ballot challenges and issue a report sustaining both of the Employer's ballot challenges because established Board law requires the Board to enforce the mail ballot election procedure strictly to protect the integrity of the mail ballot election system.

Very truly yours,



Cynthia K. Springer

CKS

Attachments

EXHIBIT 1

JBO - Safety Audit

Job Behavior Observation

| |
|------------------|
| <i>Erin Bass</i> |
| Employee Name |

| |
|----------------|
| <i>9-27-11</i> |
| Date |

| |
|---------------|
| Wayne Peele |
| Observer Name |

| | | | |
|----------------------------|----------------|-------|--------------|
| <i>New Bern / New Hope</i> | <i>Raleigh</i> | NC | <i>10:40</i> |
| Street Address | City | State | Time |

| | Satisfactory | Unsatisfactory | Not Observed |
|-----------------------------|-------------------------------------|--------------------------|-------------------------------------|
| Parking Procedures | | | |
| Parked in a safe place | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Flashers on | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Cones placed around vehicle | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Vehicle locked | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Vehicle off | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Emergency brake on | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Exit without using reverse | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|--|-------------------------------------|--------------------------|-------------------------------------|
| PPE | | | |
| Wearing safety vest | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Wearing work boots | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Hard hat available (on if necessary) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Safety glasses available (on if necessary) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|-----------------------------|--------------------------|--------------------------|--------------------------|
| Safety Awareness | | | |
| Describes hazards in area | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Made adjustments to hazards | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|----------------------------|--------------------------|--------------------------|--------------------------|
| Manhole Safety | | | |
| Proper manhole entry | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gas Tester | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Blower | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Pump | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Hard hat | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Safety glasses | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Cantilever style hook used | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|--------------------------------------|--------------------------|--------------------------|--------------------------|
| Driving Performance | | | |
| Seatbelt in use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Obeys traffic control devices | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Yields right of way (when necessary) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Practices a safe following distance | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Observes speed limit | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Adjusts speed to driving conditions | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Checks mirrors frequently | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Aware of blind spot on vehicle | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Safe lane changes | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|---|--------------------------|--------------------------|--------------------------|
| Lifting Safety | | | |
| Bends at the knees | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Object held close to body | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lift with out twisting | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Natural curve of spine maintained during lift | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|---|-------------------------------------|--------------------------|--------------------------|
| Traffic Hazard | | | |
| Frequently used items on passenger side truck bed | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Truck organization & cleanliness | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Locates/Stands facing traffic | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Safety Notes / Comments to be completed on back

Erin Bass
Employee Signature

9-27-11
Date

Wayne Peele
Observer Signature

JBO - Safety Audit

Job Behavior Observation

| |
|-----------------------------------|
| ERIN BOSS Employee Name |
|-----------------------------------|

| |
|-------------------------|
| 08/25/11 Date |
|-------------------------|

| |
|------------------------------|
| Wayne Peele Observer Name |
|------------------------------|

| | | | |
|--|--------------------------|-------------|-----------------------|
| Hwy 264A / Hwy 39 Street Address | Zebulon City | NC State | 3:45 Time |
|--|--------------------------|-------------|-----------------------|

| | Satisfactory | Unsatisfactory | Not Observed |
|-----------------------------|-------------------------------------|--------------------------|--------------------------|
| Parking Procedures | | | |
| Parked in a safe place | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Flashers on | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Cones placed around vehicle | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Vehicle locked | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Vehicle off | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Emergency brake on | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Exit without using reverse | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|--|-------------------------------------|--------------------------|-------------------------------------|
| PPE | | | |
| Wearing safety vest | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Wearing work boots | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Hard hat available (on if necessary) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Safety glasses available (on if necessary) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|-----------------------------|--------------------------|--------------------------|--------------------------|
| Safety Awareness | | | |
| Describes hazards in area | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Made adjustments to hazards | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|----------------------------|--------------------------|--------------------------|--------------------------|
| Manhole Safety | | | |
| Proper manhole entry | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gas Tester | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Blower | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Pump | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Hard hat | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Safety glasses | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Cantilever style hook used | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|--------------------------------------|--------------------------|--------------------------|--------------------------|
| Driving Performance | | | |
| Seatbelt in use | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Obeys traffic control devices | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Yields right of way (when necessary) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Practices a safe following distance | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Observes speed limit | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Adjusts speed to driving conditions | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Checks mirrors frequently | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Aware of blind spot on vehicle | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Safe lane changes | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|---|--------------------------|--------------------------|--------------------------|
| Lifting Safety | | | |
| Bends at the knees | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Object held close to body | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lift with out twisting | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Natural curve of spine maintained during lift | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | Satisfactory | Unsatisfactory | Not Observed |
|---|--------------------------|--------------------------|--------------------------|
| Traffic Hazard | | | |
| Frequently used items on passenger side truck bed | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Truck organization & cleanliness | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Locates/Stands facing traffic | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Safety Notes / Comments to be completed on back

Erin Boss
Employee Signature

8-25-11
Date

Wayne Peele
Observer Signature

EXHIBIT 2



United States Infrastructure Corporation – North Carolina Region

EMERGENCY CONTACT INFORMATION

Employee's Name MAURICE Lee BRIZZARD JR.

Current Address P.O. Box 26

City, State, Zip Middlesex, N.C. 27557

Home Phone # 252. 235. 5054

Cell Phone # _____

In Case of Emergency Please Contact:

| | Name | Relationship | Phone # |
|---|-------------------------|---------------|---------------------|
| 1 | <u>Dixie M. Brizard</u> | <u>Spouse</u> | <u>919-265-1158</u> |
| 2 | _____ | _____ | _____ |

S.S. # _____

Employee Signature Maurice Lee Brizard Jr.

Date 4-9-08

| | List any medical conditions, allergic conditions, and treatment required | Doctor Name & Number |
|---|--|----------------------|
| 1 | _____ | _____ |
| 2 | _____ | _____ |
| 3 | _____ | _____ |
| 4 | _____ | _____ |

| | | | | | | | | | | |
|------------------------|--|----------------|---------------|---|--|-----------------------------|--|--|--|--|
| EMPLOYMENT SLIP | FILL OUT ONLY AFTER APPLICANT HAS BEEN EMPLOYED | | | | | PLEASE PRINT OR TYPE | | | | |
| | REGION # | COMPANY NUMBER | POSITION CODE | OFFICE USE ONLY <input type="checkbox"/> NEW <input type="checkbox"/> INTERM. <input type="checkbox"/> ON | | | | | | |
| | 3 0 2 | 019 | 253 | | | | | | | |

RULES FOR HIRING
 Get approval from your General Foreperson before you hire anyone.
Do not hire anyone without a Social Security number. You must compare the Social Security number on this Employment Slip with the Applicant's Social Security Card.
Do not hire anyone under 18 years of age. If Applicant is under 21, proof of age (copy of birth certificate or driver's license, etc.) must be attached to this Employment Slip.
Do not hire anyone for private work without contacting your Supv. or Mgr.
 A new Employment Slip (Form PS-2) is not needed if a current employee transfers within the same Manager's Division.
 A new Employment Slip (Form PS-2) is needed if an employee transfers from one Manager's Division to another Manager's Division.
 A new Employment Slip (Form PS-2) is needed for any former employee who has been rehired.
 Review the attached copy of "Protecting Your Life On The Job" with the new employee (a Spanish edition "Le Protegemos Su Vida En El Trabajo," is also available).
After you have hired the Applicant, make sure the Withholding Exemption Certificate (W-4) is completed. Also, be sure the attached Employment Eligibility Verification (I-9) is completed. **Both you and the new employee must sign the Employment Slip (PS-2) and the Employment Eligibility Verification (I-9).** The new employee must also sign the Withholding Exemption Certificate (W-4).

SOCIAL SECURITY NUMBER [REDACTED] - [REDACTED] - 6245

NAME LAST: GRIZZARD (JR) FIRST: MAURICE MIDDLE: LOU

HOME ADDRESS (STREET OR P.O. BOX): P.O. BOX 26 TELEPHONE NO. (252) 235-5054

COUNTY: WASH CITY: Middlesex STATE: NC ZIP+4: 27557

IN CASE OF EMERGENCY NOTIFY: Dixie M. Grizzard TELEPHONE NUMBER (252) 235-5054

DATE HIRED/REHIRED: 1-3-07 RATE OF PAY: JOB TITLE: Headcraft Locator

The Age Discrimination Act of 1967 prohibits discrimination on the basis of age with respect to individuals who are at least 40 but less than 65 years of age. No question on this application is intended to secure information to be used for such purpose. The Company encourages the filing of applications by all qualified persons 18 years of age or older.

MILITARY SERVICE YES NO DATE OF ENTRY: DATE OF DISCHARGE:

DEFINITIONS: RESPONDING TO THIS SECTION IS VOLUNTARY.

"Special Disabled Veteran" means (i) a veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for disability (A) rated at 30 percent or more, or (B) rated at 10 or 20 percent in the case of a veteran who has been determined under section 58 U.S.C. 5106 to have a serious employment handicap or (ii) a person who was discharged or released from active duty because of a service-connected disability.

"Veteran of the Vietnam era" means a veteran who: (i) served on active duty in the U.S. military, ground, naval or air service for a period of more than 180 days, and who was discharged or released therefrom with other than a dishonorable discharge, if any part of such active duty was performed: (A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (B) between August 5, 1964, and May 7, 1975, in all other cases; or (ii) was discharged or released from active duty in the U.S. military, ground, naval or air service for a service-connected disability if any part of such active duty was performed (A) in the Republic of Vietnam between February 28, 1961, and May 7, 1975; or (B) between August 5, 1964, and May 7, 1975, in any other location.

"Newly Separated Veteran" means any veteran who served on active duty in the U.S. military, ground, naval or air service during the three-year period beginning on the date of such veteran's discharge or release from active duty.

The term **"Other Protected Veterans"** includes: (i) Veterans who served in a "war." Since the last declaration of war was issued by Congress initiated World War II, veterans with active duty service between December 7, 1941 and April 28, 1952 are considered veterans of World War II and are included in the Other Eligible Veterans category. (ii) Veterans who served in a campaign or on an expedition for which a campaign badge has been authorized. (iii) Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order No. 12958.

The term **"disabled veteran"** is defined as a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs or a person who was discharged or released from active duty because of a service-connected disability.

DATE OF BIRTH: 2-4-54 PROOF OF AGE ATTACHED (IF UNDER 21 AND NEW EMPLOYEE) YES NO IF NOT, WHY NOT?

CIRCLE LAST SCHOOL GRADE COMPLETED: 1 2 3 4 5 6 7 8 9 10 11 12 COLLEGE? Yes

OTHER EDUCATION, INCLUDING MILITARY TRAINING:

You are not required to disclose information about physical or mental impairments that you feel will not interfere with your ability to do this job. If, however, you would like us to consider special arrangements to accommodate an impairment, we invite you to identify that impairment in the space provided and to suggest the type of accommodation that you feel would be appropriate.

RECRUITMENT SOURCE:

Form **W-4** **Employee's Withholding Allowance Certificate** 20

1 Type or print your full name: MAURICE LOU GRIZZARD JR. 2 Your social security number: 227-82-6245

Home address (number and street or rural route): P.O. BOX 26

City or town, state and ZIP + 4: Middlesex NC 27557

3 Marital Status: Single Married Married, but withhold higher Single rate
NOTE: If married, but legally separated, or spouse is a nonresident alien, check the single box

4 Total number of allowances you are claiming: 1

5 Additional amount, if any, you want deducted from each pay: \$

6 I claim exemption from withholding because:
 a Last year I did not owe any Federal income tax and had a right to a full refund of ALL income tax withheld, AND
 b This year I do not expect to owe any Federal income tax and expect to have a right to a full refund of ALL income tax withheld. If both a and b apply, enter the year effective and "EXEMPT" here: Year 20
 c If you entered "EXEMPT" on line 6b, are you a full-time student? YES NO

Under penalties of perjury, I certify that I am entitled to the number of withholding allowances claimed on this certificate or, if claiming exemption from withholding, that I am entitled to claim the exempt status.

Employee's signature: Maurice Lou Grizzard Date: 1-3-07, 20

EMPLOYEE'S SIGNATURE: Maurice Lou Grizzard Jr. DATE: 1-3-07

I certify that I have reviewed with and given to this employee a copy of "Protecting Your Life on the Job".

CREW NUMBER: 302305

GENERAL FOREPERSON'S NAME: [Signature] DATE: 1-03-07

RETAIN FOR YOUR FILE

EXHIBIT 3

Crew Meeting Sign-In & Cover Sheet

Date: WB 9-12-11
 Crew #: SE RAL
 Supervisor: W. Peek

| General Item | Specific Topic | Attached |
|------------------|-----------------------|----------|
| Safety Tailgate- | It won't happen to me | |
| Ace Reports- | Gronah Meets | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

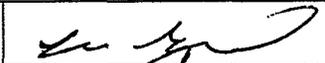
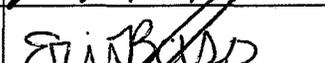
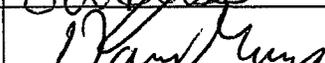
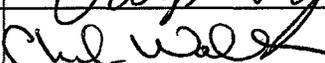
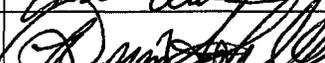
| Employee Name | Employee Signature |
|-----------------|--------------------|
| Lee Grizzard | |
| Matt Puryear | |
| Robbie Jones | |
| Erin Grizzard | |
| Danny Grizzard | |
| Charles Wallace | |
| Joseph Wallace | |
| Tim Odom | |
| Dennis Schultz | |
| Brandon Powell | |
| Matt Taylor | |

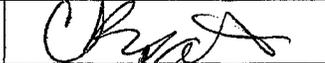
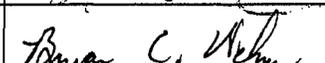
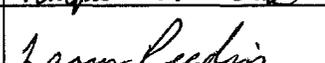
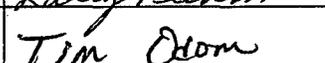
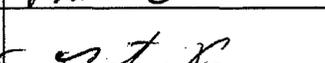
| Employee Name | Employee Signature |
|----------------|--------------------|
| Charles Bryant | |
| Ricky Morgan | |
| Mark Van Pelt | |
| Bryan Nelms | |
| Larry Peedin | |
| Tim Odom | |
| Justin Pridgen | |
| | |
| | |
| | |
| | |

Crew Meeting Sign-In & Cover Sheet

Date: WB- 9-5-11
 Crew #: SE RAL
 Supervisor: W. Peck

| General Item | Specific Topic | Attached |
|------------------|----------------|----------|
| Safety Tailgate- | Post Holiday | |
| Ace Reports- | | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

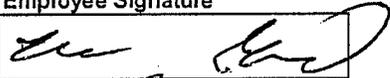
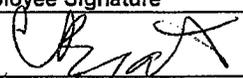
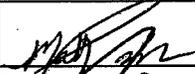
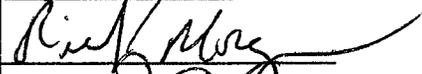
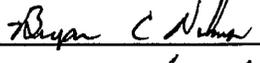
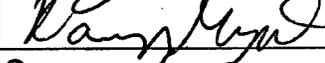
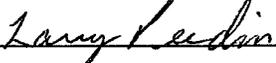
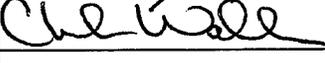
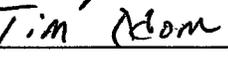
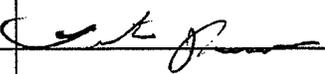
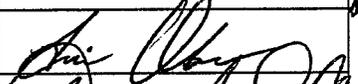
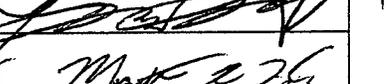
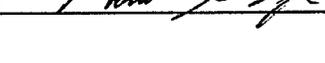
| Employee Name | Employee Signature |
|-----------------|---|
| Lee Grizzard |  |
| Matt Puryear |  |
| Robbie Jones |  |
| Erin Grizzard |  |
| Danny Grizzard |  |
| Charles Wallace |  |
| Joseph Wallace | |
| Tim Odom |  |
| Dennis Schultz |  |
| Brandon Powell |  |
| Matt Taylor |  |

| Employee Name | Employee Signature |
|----------------|---|
| Charles Bryant |  |
| Ricky Morgan |  |
| Mark Van Pelt |  |
| Bryan Nelms |  |
| Larry Peedin |  |
| Tim Odom |  |
| Justin Pridgen |  |
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Crew Meeting Sign-In & Cover Sheet

Date: WB 8-29
 Crew #: SE Rail
 Supervisor: W. Peck

| General Item | Specific Topic | Attached |
|------------------|--------------------|----------|
| Safety Tailgate- | Pre/Post Labor Day | |
| Ace Reports- | | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

| Employee Name | Employee Signature | Employee Name | Employee Signature |
|-----------------|---|----------------|---|
| Lee Grizzard |  | Charles Bryant |  |
| Matt Puryear |  | Ricky Morgan |  |
| Robbie Jones |  | Mark Van Pelt |  |
| Erin Grizzard |  | Bryan Nelms |  |
| Danny Grizzard |  | Larry Peedin |  |
| Charles Wallace |  | Tim Odom |  |
| Joseph Wallace | | Justin Pridgen |  |
| Tim Odom |  | | |
| Dennis Schultz |  | | |
| Brandon Powell |  | | |
| Matt Taylor |  | | |

Crew Meeting Sign-In & Cover Sheet

Date: WB 9-22
 Crew #: SE RAL
 Supervisor: W. Peele

| General Item | Specific Topic | Attached |
|------------------|----------------------------|----------|
| Safety Tailgate- | Back to School / Bus Stops | |
| Ace Reports- | | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

| Employee Name | Employee Signature |
|-----------------|------------------------|
| Lee Grizzard | <i>Lee Grizzard</i> |
| Matt Puryear | <i>Matt Puryear</i> |
| Robbie Jones | <i>Robbie Jones</i> |
| Erin Grizzard | <i>Erin Grizzard</i> |
| Danny Grizzard | <i>Danny Grizzard</i> |
| Charles Wallace | <i>Charles Wallace</i> |
| Joseph Wallace | |
| Tim Odom | <i>Tim Odom</i> |
| Dennis Schultz | <i>Dennis Schultz</i> |
| Brandon Powell | <i>Brandon Powell</i> |
| Matt Taylor | <i>Matt Taylor</i> |

| Employee Name | Employee Signature |
|----------------|-----------------------|
| Charles Bryant | <i>Charles Bryant</i> |
| Ricky Morgan | <i>Ricky Morgan</i> |
| Mark Van Pelt | <i>Mark Van Pelt</i> |
| Bryan Nelms | <i>Bryan Nelms</i> |
| Larry Peedin | <i>Larry Peedin</i> |
| Tim Odom | |
| Justin Pridgen | <i>Justin Pridgen</i> |
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| | |

Crew Meeting Sign-In & Cover Sheet

Date: WB-8-15-11
 Crew #: SE RAL
 Supervisor: W. Peck

| General Item | Specific Topic | Attached |
|------------------|------------------------------|----------|
| Safety Tailgate- | Rear End Accident Prevention | |
| Ace Reports- | | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

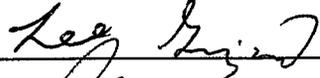
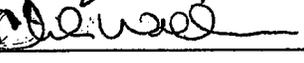
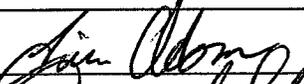
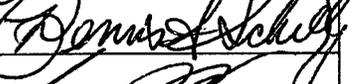
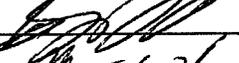
| Employee Name | Employee Signature |
|-----------------|--------------------|
| Lee Grizzard | <i>[Signature]</i> |
| Matt Puryear | <i>[Signature]</i> |
| Robbie Jones | <i>[Signature]</i> |
| Erin Grizzard | <i>[Signature]</i> |
| Danny Grizzard | <i>[Signature]</i> |
| Charles Wallace | <i>[Signature]</i> |
| Joseph Wallace | |
| Tim Odom | <i>[Signature]</i> |
| Dennis Schultz | <i>[Signature]</i> |
| Brandon Powell | <i>[Signature]</i> |
| Matt Taylor | <i>[Signature]</i> |

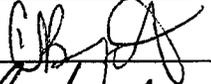
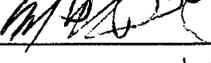
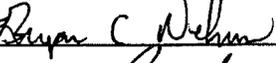
| Employee Name | Employee Signature |
|----------------|--------------------|
| Charles Bryant | <i>[Signature]</i> |
| Ricky Morgan | <i>[Signature]</i> |
| Mark Van Pelt | <i>[Signature]</i> |
| Bryan Nelms | <i>[Signature]</i> |
| Larry Peedin | <i>[Signature]</i> |
| Tim Odom | |
| Justin Pridgen | <i>[Signature]</i> |
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Crew Meeting Sign-In & Cover Sheet

Date: MB- 7-27-11
 Crew #: SE RAL
 Supervisor: W. Peele

| General Item | Specific Topic | Attached |
|------------------|---------------------------------------|----------|
| Safety Tailgate- | July 5 th Safety Standdown | |
| Ace Reports- | July 1 st Safety Standdown | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

| Employee Name | Employee Signature |
|-----------------|---|
| Lee Grizzard |  |
| Matt Puryear |  |
| Robbie Jones |  |
| Erin Grizzard |  |
| Danny Grizzard |  |
| Charles Wallace |  |
| Joseph Wallace | |
| Tim Odom |  |
| Dennis Schultz |  |
| Brandon Powell |  |
| Matt Taylor |  |

| Employee Name | Employee Signature |
|----------------|---|
| Charles Bryant |  |
| Ricky Morgan |  |
| Mark Van Pelt |  |
| Bryan Nelms |  |
| Larry Peedin |  |
| Tim Odom | |
| Justin Pridgen |  |
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Crew Meeting Sign-In & Cover Sheet

Date: WB- 7-4-11
 Crew #: SE RAL
 Supervisor: W. Peele

| General Item | Specific Topic | Attached |
|------------------|--------------------------------------|----------|
| Safety Tailgate- | July 5 th Safety Standard | |
| Ace Reports- | Quality Standard | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

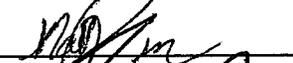
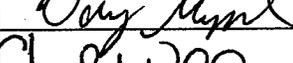
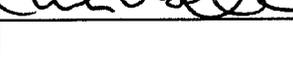
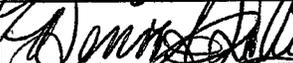
| Employee Name | Employee Signature |
|-----------------|------------------------|
| Lee Grizzard | <i>Lee Grizzard</i> |
| Matt Puryear | <i>Matt Puryear</i> |
| Robbie Jones | <i>Robbie Jones</i> |
| Erin Grizzard | <i>Erin Grizzard</i> |
| Danny Grizzard | <i>Danny Grizzard</i> |
| Charles Wallace | <i>Charles Wallace</i> |
| Joseph Wallace | |
| Tim Odom | <i>Tim Odom</i> |
| Dennis Schultz | <i>Dennis Schultz</i> |
| Brandon Powell | <i>Brandon Powell</i> |
| Matt Taylor | <i>Matt Taylor</i> |

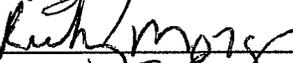
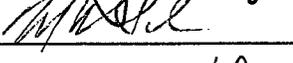
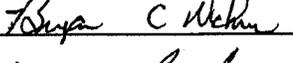
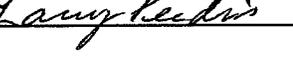
| Employee Name | Employee Signature |
|----------------|-----------------------|
| Charles Bryant | <i>Charles Bryant</i> |
| Ricky Morgan | <i>Ricky Morgan</i> |
| Mark Van Pelt | <i>Mark Van Pelt</i> |
| Bryan Nelms | <i>Bryan C Nelms</i> |
| Larry Peedin | <i>Larry Peedin</i> |
| Tim Odom | |
| Justin Pridgen | <i>Justin Pridgen</i> |
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Crew Meeting Sign-In & Cover Sheet

Date: WB- 7-11-11
 Crew #: SE RAL
 Supervisor: W. Peele

| General Item | Specific Topic | Attached |
|------------------|----------------|----------|
| Safety Tailgate- | Safe Lifting | |
| Ace Reports- | | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

| Employee Name | Employee Signature |
|-----------------|---|
| Lee Grizzard |  |
| Matt Puryear |  |
| Robbie Jones |  |
| Erin Grizzard |  |
| Danny Grizzard |  |
| Charles Wallace |  |
| Joseph Wallace | |
| Tim Odom |  |
| Dennis Schultz |  |
| Brandon Powell |  |
| Matt Taylor |  |

| Employee Name | Employee Signature |
|----------------|---|
| Charles Bryant |  |
| Ricky Morgan |  |
| Mark Van Pelt |  |
| Bryan Nelms |  |
| Larry Peedin |  |
| Tim Odom | |
| Justin Pridgen |  |
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Crew Meeting Sign-In & Cover Sheet

Date: WB 7-18-11
 Crew #: SE RAL
 Supervisor: W. Peete

| General Item | Specific Topic | Attached |
|------------------|---------------------------|----------|
| Safety Tailgate- | It won't happen to me | |
| Ace Reports- | just an ordinary road job | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

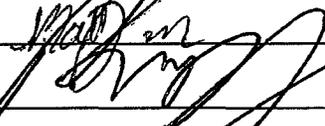
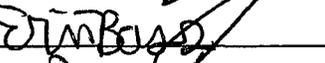
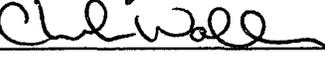
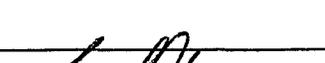
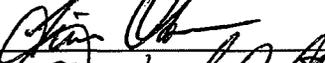
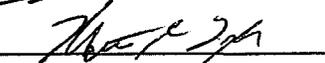
| Employee Name | Employee Signature |
|-----------------|------------------------|
| Lee Grizzard | <i>Lee Grizzard</i> |
| Matt Puryear | <i>Matt Puryear</i> |
| Robbie Jones | <i>Robbie Jones</i> |
| Erin Grizzard | <i>Erin Grizzard</i> |
| Danny Grizzard | <i>Danny Grizzard</i> |
| Charles Wallace | <i>Charles Wallace</i> |
| Joseph Wallace | |
| Tim Odom | <i>Tim Odom</i> |
| Dennis Schultz | <i>Dennis Schultz</i> |
| Brandon Powell | <i>Brandon Powell</i> |
| Matt Taylor | <i>Matt Taylor</i> |

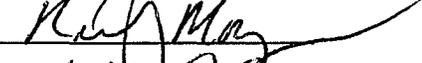
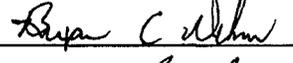
| Employee Name | Employee Signature |
|----------------|-----------------------|
| Charles Bryant | <i>Charles Bryant</i> |
| Ricky Morgan | <i>Ricky Morgan</i> |
| Mark Van Pelt | <i>Mark Van Pelt</i> |
| Bryan Nelms | <i>Bryan C Nelms</i> |
| Larry Peedin | <i>Larry Peedin</i> |
| Tim Odom | |
| Justin Pridgen | <i>Justin Pridgen</i> |
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Crew Meeting Sign-In & Cover Sheet

Date: WB 8-8-11
 Crew #: SE RAL
 Supervisor: W. Peek

| General Item | Specific Topic | Attached |
|------------------|----------------------|----------|
| Safety Tailgate- | 7 intersection rules | |
| Ace Reports- | | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

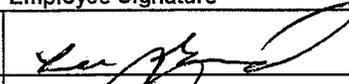
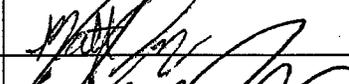
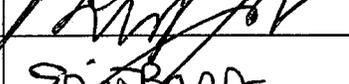
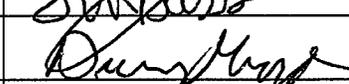
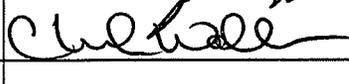
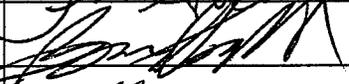
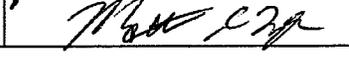
| Employee Name | Employee Signature |
|-----------------|---|
| Lee Grizzard |  |
| Matt Puryear |  |
| Robbie Jones |  |
| Erin Grizzard |  |
| Danny Grizzard |  |
| Charles Wallace |  |
| Joseph Wallace | |
| Tim Odom |  |
| Dennis Schultz |  |
| Brandon Powell |  |
| Matt Taylor |  |

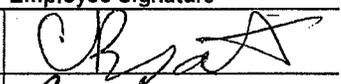
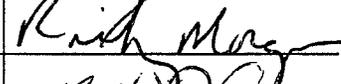
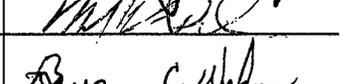
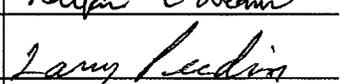
| Employee Name | Employee Signature |
|----------------|---|
| Charles Bryant |  |
| Ricky Morgan |  |
| Mark Van Pelt |  |
| Bryan Nelms |  |
| Larry Peedin |  |
| Tim Odom | |
| Justin Pridgen |  |
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Crew Meeting Sign-In & Cover Sheet

Date: WB 8-1-11
 Crew #: SE RAL
 Supervisor: W-Peek

| General Item | Specific Topic | Attached |
|------------------|-----------------|----------|
| Safety Tailgate- | Left Right Left | |
| Ace Reports- | | |
| TTT's- | | |
| Recent Damages- | | |
| Production- | | |
| Financials- | | |
| Customer Issues- | | |
| Other- | | |

| Employee Name | Employee Signature |
|-----------------|---|
| Lee Grizzard |  |
| Matt Puryear |  |
| Robbie Jones |  |
| Erin Grizzard |  |
| Danny Grizzard |  |
| Charles Wallace |  |
| Joseph Wallace | |
| Tim Odom |  |
| Dennis Schultz |  |
| Brandon Powell |  |
| Matt Taylor |  |

| Employee Name | Employee Signature |
|----------------|---|
| Charles Bryant |  |
| Ricky Morgan |  |
| Mark Van Pelt |  |
| Bryan Nelms |  |
| Larry Peedin |  |
| Tim Odom | |
| Justin Pridgen |  |
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