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Manhattan Valley Management Company, Inc. ("Employer" or "Company")

and

League of International Federated Employees ("Union" or "League" or "LIFE") and, **surprise, League of International Federated Employees, Local 890 ("League Local 890"),**

NLRB Case No. 02-RC-068074 **Dec. 21, 2011**

EMPLOYER'S REQUEST FOR REVIEW AND DISMISSAL

Preliminary Statement

Pursuant to Board R & R Sec. 102.67, the Employer requests the Board to review Region 2's Decision and Direction of Election dated Dec. 14, 2011, and, upon review, to dismiss Petitioner League's RC petition filed Nov. 2, 2011 (Bd. Ex. 1A), upon the following grounds:

(1) Region 2 prejudicially errs by naming and treating so-called League Local 890 as the Petitioner in this case - whether League Local 890 is a labor organization was not identified or investigated as an issue at the hearing herein held Nov. 17, 2011, (Tr. 1-53), which dealt instead with the issue raised by the Employer as to whether League is a labor organization (Tr. 9, 12) - and by gratuitously finding League Local 890 to be an Act Section 2(5) labor organization and, surprise, the petitioner in this case, whereas (i) League is the Petitioner self-named on the petition herein, which League amended during the hearing, as Region 2 notes (D & D, p. 1 n. 2), but only to change the name of the Employer (Tr. 7-8) and to change the unit description (Tr. 11-12), and (ii) the D & D does not address, explore or rule upon the issue raised at the hearing by the Employer as to its (League's) labor organization status; and

(2) as argued to Region 2 in the Company's Post-Hearing Brief to Region 2 dated and filed Nov. 25, 2011 (copy attached hereto), the Board lacks jurisdiction in this case, because the Employer and its building service employees who work and, some of them (Tr. 41-2), live at the 45 turn-of-the-20th-century building in upper Manhattan involved in this case - "usually small, consisting of anywhere from eight to 12 units, generally [41 of the 45 buildings] walkups" (Tr. 35) - belong to an industry, the low-income affordable housing industry - and the Employer belongs to an Act Section 14(c)(1) "class or category of employers," i.e., employers which own and operate or, as here, manage low-income affordable housing buildings - as to which, apparently, there is no officially reported Board precedent establishing an applicable Board discretionary jurisdictional standard or otherwise knowingly asserting and exercising Board discretionary jurisdiction.

Further Facts and Argument

Further as to (1), Region 2's under-the-radar surprise substitution of League Local 890, not a party to this case, for League, as the Petitioner in this case:

At the hearing Nov. 17, 2011 hearing, off the record and in an effort to overcome the Employer's stated (Tr. 9) unwillingness to stipulate to the labor organization status of Petitioner League, the Hearing Officer and her supervising attorney showed me, present as the attorney for the Employer, a hard copy of the Board and Judge Green's respective decisions in Avne Systems, Inc. *and* Local 445, Laborers' International Union of North America, AFL-CIO and Local 445, League of International Federated Employees (Avne Systems, Inc.) and Local 445, Laborers' International Union of North America, AFL-CIO, Cases 2-CA-30949 and 2-CB-16899,331 NLRB 1352 (2000), and, pointing to Judge Green's sentence on page 1359:

> "The evidence shows that Local 445 LIFE was formed in December 1996 or early January 1997 by the officers and trustees of Laborers' Local 445 and for better or worse it was stipulated that both were labor organizations within the meaning of the Act."

told me that Avne was a case where the Board had decided that League was a labor organization (sic). Noting the different name of the LIFE union party in Avne, I continued not to stipulate to Petitioner League's labor organization status, further demurring in the Employer's Post-Hearing Brief (Attachment, pp. 8-9). Now comes Region 2's D & D not only not finding whether not Petitioner League is a labor organization, but finding League Local 890, brand new in the case, to be a labor organization and, adding insult to injury, to be the petitioner in the case. That is a total non sequitur to the naming of League as the Petitioner in the petition itself (Bd. Ex. 1A) and in Region 2's own conference letter (Bd. Ex. 1C), Notice of Hearing (Bd. Ex. 1D) and Order Rescheduling Hearing (Bd. Ex. 1F), and to the on and off the record investigation carried on at the hearing and in the Employer's Post-Hearing Brief. And it is "bait and switch," unworthy of a government agency, that confuses the Employer and potentially confuses the employees involved in this case, prospective voters in a Board representation election, as well. In Avne, "As an initial point, we find that Respondent LIFE affirmatively concealed material facts from the International about the status of Local 445." (331 NLRB at 1353). Something is still fishy with LIFE.

Further as to (2), Region 2's uncareful and erroneous application to this case of a Board discretionary jurisdictional standard not applicable to the low-income affordable housing buildings and their building service employees involved in this case:

All that Region 2 says on the subject of Board discretionary jurisdiction in the D & D is this:

"The discretionary jurisdictional standard for residential buildings is $500,000 annually in gross rental income. See Parkview Gardens, 166 NLRB 897 (1967), and Imperial House Condominium, Inc., 279 NLRB 1225 (1986), affd. 831 F.2d 999 (11st Cir. 1987). This figure is met in this case."

(D & D p. 3). This avoids and glosses over the all-important question of what kind of "residential buildings" are involved in this case. It reduces the subject of the Board's discretionary jurisdiction to the mere matter of the Employer's commerce numbers. Board discretionary jurisdiction is of course a matter of an employer's commerce numbers, but in this case it is also and urgently a matter of what kind of residential buildings are involved in the case and whether they are essentially like or unlike the kind of residential buildings involved in the cases used by Region 2 to find Board discretionary jurisdiction.

The kind of residential buildings involved in this case, and their unlikeness to the apartment and condominium/cooperative buildings involved in Region 2's cases, are described in the record testimony given by Bradford Winston, a long-time member of the board of directors of the Company (and of related non-profit Manhattan Valley Development Corp., which "actually often ... subsidizes the payroll [of the claimed 29 building service employees who work at the 45 buildings" [Tr. 49]), who attended and appeared at the hearing as a representative of the Company because, since Thanksgiving 2010, "we do not have an executive director who would normally do this. And I probably am familiar with more than the typical person because I'm in the industry. ... The low income and affordable housing sector, which I have been in for some 40 years." (Tr. 45-6). Mr. Winston described the distinctive features of the low-income affordable housing (also or sometimes known as Section 8 housing or tax credit housing) involved in this case, in testimony entirely ignored by the D & D, as follows:

> "It's a sector of the real estate industry, whereby housing is provided for persons with minimal financial capacity to pay conventional rents or market rents whereby subsidies are provided, typical either through federal, state or city assistance, and whereby the tenant contributes some 30% max of their adjusted gross income towards the rent. So that in order to meet the financial obligations of that particular building, the government partners with the tenant, so that expenses can be met on an annual basis and the building is preserved. The low income side and the affordable side I would say that primarily we are associated, Manhattan Valley Development Corp., with the low income sector, which is known to be somewhere between the 30 and 50% of median income of the city, often either on welfare, Social Security and the like, or shelter rent allowance where an individual whose monthly income is $215 a month, which otherwise would not allow that individual to reside in housing in New York City." (Tr. 46-7);

> "the rents that flow through the buildings by nature, because they are low income and affordable, often are comprised of a tenant contribution. Tenant contributions meaning generally no greater than 30% of their adjusted gross income, as determined by certain parameters. And the rest of the rent, should the tenant pay their portion of the rent, would come through either a requisition to the federal government t, or city government or state government. So in order to preserve those revenues, tenants are required to certify annually – not in all the projects but most – to their incomes, as well as their household compositions; number of persons residing. And as to whether they are legal residents ... in terms of legally entitled to reside there. " (Tr. 28-9).

Mr. Winston's testimony evidences that the low-income affordable housing buildings and industry involved in this case are a world apart, an industry apart, and a Board discretionary jurisdictional standard apart, from those involved in the two cases, Parkview Gardens and Imperial House Condominium, used by Region 2 to find Board discretionary jurisdiction in this case. Parkview Gardens asserts jurisdiction over residential apartment buildings meeting the jurisdictional amount of $500,000 per annum, finding that industry to be: of substantial size; highly financed; very large and continually growing; trending toward corporate ownership; highly competitive; providing many additional services to the housing consumer; and exerting a substantial impact on commerce – not a word about low-income tents, tenant income limits, maximum tenant rents, government-subsidized rents, etc. Imperial House Condominium, declining to overrule 30 Sutton Place Corp., 240 NLRB 752 (1979), reasserts jurisdiction over residential condominiums meeting the jurisdictional amount of $500,000 per annum, analogizing to "any similar business enterprise." (279 NLRB at 1227). 30 Sutton Place had asserted jurisdiction over "present–day condominiums and cooperatives, consisting of numerous owners acting in concert to manage and maintain their collective properties, [and] engaged in business having a significant impact on interstate commerce." (240 NLRB at 753). Neither of these three Board decisions constitutes or sets a precedent or standard for asserting or exercising discretionary jurisdiction over the low-income affordable housing before the Board in the case at bar, so different in kind as it is from the market apartment and condominium/cooperative housing involved in those decisions.

There is, so far as presently appears, no officially reported Board precedent either establishing a discretionary jurisdictional standard for low-income affordable housing, under Act Section 14(c)(1) or otherwise, or asserting and exercising discretion over such housing on a knowing ad hoc basis.

Conclusion

For the reasons set forth in this Employer's Request for Review and Dismissal, and in the attached Company's Post-Hearing Brief to Region 2, the Board should grant review of Region

2's Decision and Direction of Election dated Dec. 14, 2011, and, upon review, dismiss Petitioner League's RC petition filed Nov. 2, 2011.

Respectfully submitted,

Eric Rosenfeld

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Dated: New York, NY

Dec. 21, 2011

STATEMENT OF SERVICE: On this 21st day of December 2011, I served a copy of this Request for Review and Dismissal with attachment, by regular mail, on Acting Regional Director Karen P. Fernbach, NLRB Region 2, at 26 Federal Plaza, Room 3614, New York, NY 10278, and on Petitioner League of International Federated Employees, Attn: Dina Chiclana, Delegate, at 325 73rd St., Brooklyn, NY 11209. I have not served League Local 890, for which the record contains no mailing address.

Eric Rosenfeld

Eric Rosenfeld

Manhattan Valley Management Company ("Management Company" or "Company") *and* **League of International Federated Employees ("LIFE" or "Union"),**

NLRB Case No. 02-RC-068074

COMPANY'S POST-HEARING BRIEF TO NLRB REGION 2 (filed 11/25/11)

PRELIMINARY STATEMENT

Manhattan Valley Management Company submits this hasty post-hearing brief to assist the Board, which has incomparably greater research and other resources, in determining whether or not an Act Section 9(c) question of representation affecting commerce exists in this case. That question may not exist in this case due to petitioner LIFE's lack of labor organization status, a conventional issue, and the lack of an applicable Board discretionary jurisdictional standard, not at all a conventional issue. The case involves a claimed 29 superintendents and porters – whose employees they are is also a question - who work part-time or full-time at one or more (Tr. 37-8) of 45 turn-of-the-20th-century buildings in the West 101st to 109th Streets and West l66th to 176th Streets areas of Manhattan (Un. Ex. 1) - "usually small, consisting of anywhere from eight to 12 units, generally [41 of the 45 buildings] walkups" (Tr. 35) – that house low income tenants including some of the supers and porters themselves (Tr. 40-1). The Management Company does ADP payroll (Tr. 49), and provides health benefits, a dental program, and work shoes and protective equipment (Tr. 42-3), for the claimed supers and porters. Its annual revenues - its only revenues - are the management fees, "in the range of $300,000" (Tr. 8), paid by the various building owner entities who have contracted with the Management Company to manage or, in the case of the New York City-owned buildings, assist in the transition of the building to cooperative ownership by its in-place low income tenants.

Attachment

As filed with Region 2 on Nov. 2, 2011, LIFE's RC petition requested certification as a representative of a claimed 29 employees of Manhattan Valley Development Corp. in a bargaining unit including "All full-time and regular part-time building service employees, including superintendent, employed by the employer at all facility locations." (Bd. Ex. 1a). Manhattan Valley Development Corporation is a related New York not-for-profit corporation and Internal Revenue Code Section 501(c)(3) organization whose "mission statement, which is clearly defined in our 990's, states that we are specifically interested in the preservation of low income and affordable housing to protect those in place [,] those who lived within the neighborhood for years, to provide that safe and affordable housing for those individuals. ... Essentially we [the Dev Corp] partner with government. We have partnered with profit-motivated entities, where they have secured tax credits ... So that they get the tax credit, yet the capital flow is to the building, in order to maintain physical plants and replacements as necessary. That's the short term basis. On a long term basis it's the flow of capital through assistance payments of city government, whether it be welfare, federal government, whether it be Social Security, or through HUD assistance payments, or state or a combination thereof, to make up the difference between what a tenant can afford and what it should cost to operate the building. And these are scrutinized by the different entities to assure our compliance." (Tr. 47-8) (emphasis added). The Development Corp., in addition, "through its proceeds, its revenues, actually often makes -- subsidizes the payroll [of the claimed supers and porters who work at the 45 buildings] to the extent it can, to insure payroll. It loans the buildings money directly, which is unlikely to ever be paid back." (Tr. 49).

Hearing was on Nov. 17, 2011, before Senior Field Attorney Rhonda Gottlieb. The hearing transcript should be corrected and understood, at 34:20 and throughout, to reflect that each of the low income affordable housing projects involved in this case, other than the tax-credit projects, which have private-sector investors/syndicators (Tr. 33-4) – is a legally separate "Housing Development Fund Company (HDFC)" under Article XI Housing Development Fund Companies of the New York Private Housing Finance Law.

At the outset of the hearing, LIFE amended its petition (i) to change the named employer to Manhattan Valley Management Company, the related company that serves as management agent to the various owner entities that own and operate the 45 buildings where the claimed 29 supers and porters work, and (ii) to change the unit description to: all full time and regular part time employees including handymen [there aren't any - Tr. 32, 41], porters and superintendents employed by Manhattan Valley Management Company at the 45 building locations listed on Union Exhibit 1. (Tr. 10-2).

THE HEARING

The Company declined at the hearing, in the apparent absence of applicable Board precedent, to stipulate to jurisdiction or employer status, or to state a position as to LIFE's labor organization status or the appropriateness of the unit requested. Hearing Officer Gottlieb then called two witnesses: (1) LIFE Delegate Dina Chiclana, to make the record as to the claimed Act Section 2(5) labor organization status of petitioner LIFE; and (2) the Company's Bradford Winston, who is a management consultant to the low income affordable housing sector of the real estate industry (Tr. 46) and a long-time (uncompensated) member of the

board of directors of both the Development Corporation and the Management Company (Tr. 22-3, 48). Mr. Winston attended and appeared at the hearing as a representative of the Company because, since Thanksgiving 2010, "we do not have an executive director who would normally do this. And I probably am familiar with more than the typical person because I'm in the industry. ... The low income and affordable housing sector, which I have been in for some 40 years." (Tr. 45-6).

The Management Company, after the HO called her witnesses, then - as was its right under Board R & R Sec. 102.66(a) ("any party ... shall have power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence.") - called a witness, Ms. Chiclana, who as the HO's witness had only testified concerning the labor organization issue, to testify concerning the unit issue: "She said certain things off the record concerning other building service employers with whom her union has contracts and I wanted to put some of that and some follow up questions on the record, And I believe it is relevant to the unit question in this case." (Tr. 53). The Hearing Officer, after taking a recess, denied the Company's request, to which the Company objected, per Board R & R 102.66(b), on the following grounds: "I wanted to examine the Union representative on the unit issue as a follow up to some of her off the record statements concerning other building service employers who are covered by contracts and particular her off the record statement ... that her union does not represent all of the locations of these other employers. In this case, as you know, the Union position is that ... they should be certified as the representative of all locations with these maintenance employees. So I think her own union's experience, contracting with perhaps

similar employers for less than all of their locations is the relevant evidence on the unit issue." (Tr. 52). The Hearing Officer, however, stuck to her guns and closed the hearing without more.

FURTHER FACTS

Low income and affordable housing, what this case is about, is "a sector of the real estate industry, whereby housing is provided for persons with minimal financial capacity to pay conventional rents or market rents whereby subsidies are provided, typical either through federal, state or city assistance, and whereby the tenant contributes some 30% max of their adjusted gross income towards the rent. So that in order to meet the financial obligations of that particular building, the government partners with the tenant, so that expenses can be met on an annual basis and the building is preserved. The low income side and the affordable side I would say that primarily we are associated, Manhattan Valley Development Corp., with the low income sector, which is known to be somewhere between the 30 and 50% of median income of the city, often either on welfare, Social Security and the like, or shelter rent allowance where an individual whose monthly income is $215 a month, which otherwise would not allow that individual to reside in house in New York City." (Tr. 46-7).

"Most of these buildings are older turn of the century buildings. They're not new construction. And they've lived their useful life in terms of the physical parameters. And the goal is to replace the wasting assets and the systems." (Tr. 32-3). This echoes the buildings' history: "About the turn of the [20TH] century a wave of new immigrants arrived in the city, and in response to the heightened demand for housing the [City's Tenement House] department sought to improve the conditions in the old law [pre-Tenement House Law of 1901] buildings rather than shut them down." The Encyclopedia of New York City, Edited by Kenneth T. Jackson (New York, 1995), **tenements**, pp. 1162-3.

The 45 buildings "are all individual corporations. There may be two, three buildings associated with one corporation." (Tr. 33). They "collectively yield in excess of $500,000" (Tr. 25) in annual rents and government rent subsidies to their various owner entities: "the rents that flow through the buildings by nature, because they are low income and affordable, often are comprised of a tenant contribution. Tenant contributions meaning generally no greater than 30% of their adjusted gross income, as determined by certain parameters. And the rest of the rent, should the tenant pay their portion of the rent, would come through either a requisition to the federal government, or city government or state government. So in order to preserve those revenues tenants are required to certify at least annually – not in all the projects but most – to their incomes, as well as their household compositions; number of persons residing. And as to whether they are legal residents ... in terms of legally entitled to reside there." (Tr. 28-9). Again collectively, the 45 buildings have annual "indirect inflow" in excess of $5,000. (Tr. 25). The owners of the buildings are corporations which enter into various types of partnerships with government agencies and private party syndicators known in the industry, the low income affordable housing industry, as HPD Projects, HUD Projects, Tax Credit Projects and Third Party Transfer Projects. (Tr. 33-7). It is a world apart, an industry apart, from apartment buildings providing housing for persons able to pay unsubsidized "conventional rents or market rents" (Tr. 46).

"A number of the superintendents [and porters – Tr. 41] have chosen to live in these building and asked to be the maintenance employees because we're converting these building to equity ownership. And the goal is that they'll live in the building, and be able to buy their apartment and then they'll no longer be the superintendent. It's all part of the underlying mandate and mission." (Tr. 40).

The Management Company performs various services for those buildings: "Well, first they – first – they maintain a full set of books for the various owner entities of a number of corporations. Second, they, at the owners' request, manage the physical plants of these buildings. And where there is a board of directors they report to the board of directors of these buildings, usually on a monthly basis. And they're responsible to provide whatever information is necessary, should there be an outside auditor, when it comes to financial reports. They are also responsible for compliance with the various funding agencies associated, whether it be state, city, federal or other, in terms of compliance with respect to occupancy of the units and the tenants." (Tr. 22-3).

Plus, as noted above, the Company collects rents and government rent subsidies for the owner entities for which it acts as management agent.

Plus the Company "issues a [pay]check [to the 29 supers and porters] on behalf of each housing corporation, for which it is reimbursed. ... basically serving as ADP or Paychex would. Manhattan Valley [Management Company] does not have the wherewithal financially to make the payroll as it doesn't have the necessary income to meet that payroll. And that's why I explained earlier ... the development corporation, through its proceeds, its revenues, actually

often makes – subsidizes the payroll to the extent it can, to insure payroll. It loans the buildings money directly, which is unlikely to ever be paid back." (Tr. 42). "I probably should add to this that because of the size of the buildings that often it's a part time – it's an apportionment of time of an employee to work these buildings, because they're smaller and they wouldn't normally require a full time employee. So often there might be two or three employees at various – on various different days working the particular building, whether it be superintendent in nature or custodial in nature. And in those cases, those individuals are not – their payroll, cut through the management company, is reimbursed by more than one entity, more than one corporation." (Tr. 37-8).

The Company carries out these various activities with a "central office" (73 West 108th St., NYC) staff consisting of: an executive director (the position unfilled since last Thanksgiving); an accounting department with several employees; a compliance person; a receptionist; a facilities director in charge of capital projects; another facilities person who spends more time in the field; and several consultants. (Tr. 27-32).

QUESTION OF LABOR ORGANIZATION STATUS OF PETITIONER LIFE

At the hearing, the Hearing Officer took the position that LIFE was an Act Sect. 2(5) labor organization, asserting, unaccountably and erroneously, that the Board had so found in Avne Systems, Inc., 331 NLRB 1352 (2000). (Tr. 52-3). In that case, however, Judge Green - in regard to an organization with the different name "Local 445, League of International Federated Employees (LIFE)" - found and stated that "The evidence shows that Local 445 LIFE was formed in December 1996 or early January 1997 by the officers and trustees of Laborers' Local 445 and

for better or worse it was stipulated that both were labor organizations within the meaning of the Act." Avne at 1352, 1359 (emphasis added). That is no basis, of course, for finding that, for better or worse, the differently named petitioner in this case, LIFE, is a labor organization.

Nor does the record in this case contain a single collective bargaining agreement maintained by LIFE, or the unit description in a single CBA maintained by LIFE, or even name a single employer with whom LIFE has a CBA, or its industry or Act Section 14(c)(1) "class or category of employers." There is just Ms. Chiclana's unedifying testimony that "we put League of International and we put Local 890" (Tr. 21-2), and that LIFE has CBAs with "a good 100 and something different companies" (Tr. 18), including, one supposes, Avne Systems, Inc., whose contract, however, is not with LIFE but with Local 445, League of International Federated Employees (LIFE). From this record, it appears that Avne Systems, Inc. is the rotten apple that spoils LIFE's barrel.

QUESTION OF BOARD'S JURISDICTION

The Board has not established a jurisdictional standard for the Management Company's industry. The Region should not, therefore, proceed and exercise the Board's so-called discretionary jurisdiction in this case, even assuming, arguendo, that the Board would theoretically have statutory jurisdiction in this case on the basis of the Management Company's annual (management fee) revenues in excess of $300,000, and/or the building owners' annual revenues in excess of $500,000 and annual "indirect inflow" in excess of $5,000.

At the hearing, the Hearing Officer took the position that the Board had jurisdiction in this case under (1) the Board's residential apartment house jurisdictional standard, gross annual

revenue of $500,000 or more, first established in Parkview Gardens, 166 NLRB 697 (1967), and (2) the proposition that "Historically, the Board asserts jurisdiction over the managing agent of [apartment] buildings where the underlying [apartment] buildings meet the necessary jurisdictional requirements. Phipps Houses Services, 320 NLRB 876 (1996)," citing to the Board's August 2008 Outline of Law and Procedure in Representation Cases, Sec. 1-303, p. 9.

In Parkview, "The Employer is a partnership of three individuals and the estate of a fourth individual ... engaged in the operation of .... a garden-type apartment project composed of 592 units located on 24 acres of land in East Riverdale, Maryland. .... The project is operated by a property manager, who is employed by the partnership. ...The individual partners (including the estate of Bernard Katz) consider themselves real estate investors ... ," (166 NLRB at 697), whereas in the present case the low income projects, each subject to maximum rents to enable the low income tenants to own housing in Manhattan and each owned and operated by separate HDFCs or other separate legal entities, are as different in kind from the partnership of investors in Parkview as one can imagine. In Parkview, then, having carefully described the particular operation immediately before it in the case, **then** recognizes and establishes the particular industry of which the particular operation was a part: "the residential apartment industry ... is one of substantial size, it is a highly financed segment of our economy, and its operations exert a substantial impact on commerce. ... With this growth of corporate ownership, the industry has become highly competitive. As a result it now provides many additional services to the housing consumer. Among them are reception and answering services, valet services, maintenance services, high speed elevators, recreational and social

facilities such as swimming pools, tennis courts, golf courses, varied function rooms, and the like." Parkview at 697-8.

Mr. Winston's testimony surely establishes (i) that the particular and legally separate buildings before the Board in this case, subject as they are to tenant low income limits and maximum rent limits and a "social housing" public purpose and policy, are low income affordable housing buildings part of the low income affordable housing industry, (ii) that they are a world apart, an industry apart, from residential apartment buildings part of the residential apartment industry as delineated in Parkview, and (iii) that they do not, therefore, fall under the rule of decision in Parkview.

In this absence of an applicable jurisdictional standard established by the Board, no one of the Board's 51 Regional Offices has authority to establish a jurisdictional standard for the Board. The Board itself establishes its jurisdictional standards.

CONCLUSION

It appears from the record made in this case that LIFE's petition should be dismissed for lack of labor organization status and/or lack of an applicable Board discretionary jurisdictional standard.

Dated: New York, NY

Nov. 25 , 2011

Respectfully submitted,

S/Eric Rosenfeld

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TO: Karen P. Fernbach, Acting Regional Director

Attn: Rhonda Gottlieb, Senior Field Attorney and Hearing Officer

NLRB Region 2

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STATEMENT OF SERVICE: On this date, Nov. 25, 2011, I served a copy of this Company's Post-Hearing Brief to Region 2 on Petitioner LIFE by regular mail addressed to: Dina Chiciana, Delegate, LIFE, 325 73rd St. Brooklyn, NY 11209.

S/ Eric Rosenfeld

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