

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 14, SUBREGION 33

METRO MEDICAL SERVICES, INC.
Employer

and

Case 14-RC-068236

INTERNATIONAL ASSOCIATION OF EMTs &
PARAMEDICS, SEIU/NAGE LOCAL 5000
Petitioner

REGIONAL DIRECTOR'S REPORT
ON CHALLENGED BALLOTS AND OBJECTIONS,
ORDER DIRECTING HEARING AND NOTICE OF HEARING

This report is the Regional Director's conclusion that the challenges to the ballots of four voters and the Petitioner's objections to conduct of the election raise substantial and material questions of fact that can best be resolved by a hearing.

Procedural History

The petition in this matter was filed on November 4, 2011. The parties executed a Stipulated Election Agreement that the Regional Director approved on November 10, 2011. The parties' agreement provided for an election to be conducted on December 16, 2011, among employees of the Employer in the following, appropriate collective-bargaining unit:

All full-time and regular part-time paramedics, emergency medical technicians, wheel chair van drivers and billers excluding guards and supervisors as defined in the Act.

The tally of ballots made available to the parties at the conclusion of the election discloses the following results:

Approximate number of eligible voters	37
Void ballots.....	0
Votes cast for PETITIONER.....	15
Votes cast against participating labor organization	16
Valid votes counted.....	31
Challenged ballots.....	4
Valid votes counted plus challenged ballots.....	35

Challenges are sufficient in number to affect the results of the election.

On December 23, 2011, the Petitioner timely filed objections to conduct of the election.¹

Pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, the Regional Director caused an investigation to be made of the challenged ballots and objections. All evidence adduced during the investigation has been carefully considered by the Regional Director who reports and orders as follows:

Background

The Employer, an Illinois corporation, is engaged in providing medical transportation in the form of ambulance and wheel chair van transportation from its facility located at 5112 Forest Hills Court, Loves Park, Illinois, the only facility involved. At the time of the election, there were approximately 37 employees in the above-described collective bargaining unit.

The Challenged Ballots

Nicholas Harvey, Steve Kirschbaum, Brandon Lieber, Jesse Shaw

The ballots of Nicholas Harvey, Steve Kirschbaum, Brandon Lieber, and Jesse Shaw were challenged by the Petitioner on the ground that none of them is employed

¹ A copy of the Petitioner's objections is attached as Exhibit 1.

on a regular basis. It is the Employer's position that the challenges to these ballots should be overruled as each of these individuals is a regular employee of the Employer.

Based on evidence adduced during the investigation, the undersigned concludes that the challenges to the ballots of the Nicholas Harvey, Steve Kirschbaum, Brandon Lieber, and Jesse Shaw raise substantial and material questions of fact that best can be resolved by a hearing.

The Objections

In its objections, the Petitioner alleges that the Board agent conducting the election arrived late to the pre-election conference, that the Board agent declared that all employees on the *Excelsior* list were eligible voters, that the Board agent gave incomplete instructions to observers on the challenge procedure, that the Board agent's advice to the Petitioner's observer during the course of the election created confusion as to the observer's right to challenge prospective voters, that the Petitioner's observer failed to challenge certain voters as a result of this confusion, and that the Board agent's overall conduct cast doubt as to the fairness and validity of the election. The Employer contends that the conduct described in the Petitioner's objections is an insufficient basis upon which to set aside the election.

Based on evidence adduced during the investigation, the undersigned concludes that the Petitioner's objections raise substantial and material questions of fact that best can be resolved by a hearing.

CONCLUSION AND ORDER

Having concluded that the challenges to the ballots of Nicholas Harvey, Steve Kirschbaum, Brandon Lieber, and Jesse Shaw, and the Petitioner's objections raise substantial and material questions of fact that best can be resolved by a hearing,

IT IS HEREBY ORDERED, pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, that a hearing be held for the purpose of receiving testimony and other relevant evidence bearing on the issues identified above as to the challenges to the ballots of the aforementioned voters and the Petitioner's objections.

IT IS FURTHER ORDERED that the hearing officer designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of the witnesses, findings of fact, and recommendations to the Board as to the disposition of said issues.

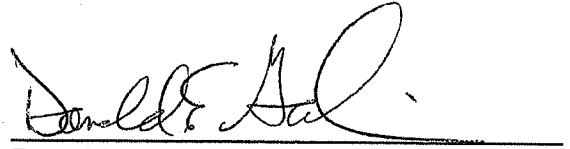
IT IS FURTHER ORDERED that thereafter, pursuant to Section 102.69(i)(1) of the Board's Rules and Regulations, the case shall be transferred to and continued before the Board in Washington, DC, and that the provisions of Section 102.69(f) of the Board's Rules and Regulations shall govern the filing of exceptions, if any, to the hearing officer's report.

NOTICE OF HEARING

PLEASE TAKE NOTICE that on January 25, 2012, at 9:30 a.m., and, if necessary, on consecutive business days thereafter, at the United States Courthouse, 211 South Court Street, Rockford, Illinois, a hearing will be conducted before a hearing officer to

be designated, at which time and place, you will have the right to appear in person or otherwise and give testimony as provided by the National Labor Relations Act.

Dated at Peoria, Illinois, January 18, 2012

A handwritten signature in black ink, appearing to read "Donald E. Gardiner", written over a horizontal line.

Donald E. Gardiner,
Acting Regional Director
National Labor Relations Board
Region 14, Subregion 33
300 Hamilton Boulevard, Suite 200
Peoria, Illinois 61602-1246

U.S. NATIONAL LABOR RELATIONS BOARD
SUBREGION 33

METRO MEDICAL SERVICES
Employer,

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and

INTERNATIONAL ASSOCIATION OF
EMT'S AND PARAMEDICS, NATIONAL
ASSOCIATION OF GOVERNMENT
EMPLOYEES, SEIU LOCAL 5000
Petitioner

PETITIONER'S OBJECTION TO THE ELECTION

COMES NOW the Petitioner, International Association of EMTs and Paramedics (IAEP), NAGE, SEIU, and files this objection to the election in the above-captioned case.

Immediately prior to the opening of the polls, the Board Agent improperly advised the union representatives in regards to the voters that they could challenge. This in turn caused the union observer to not challenge certain voters, which directly affected the outcome of the election, which the employer won by one (1) vote.

**A. The Board Agent Improperly Advised the Union Observer
in Regards to Challenged Ballots and Voter Eligibility**

An election was held on December 16, 2011, on the Employer's premises in Rockford, IL. The polling place was open from 6:30-10:30 a.m. A pre-election meeting was scheduled for 6:00 a.m. on the date of the election.

The Union representative Scott Schaub and the Union observer, Paramedic Mark Tyson, entered the polling place at 6:00 a.m. The Board Agent did not arrive until approximately 6:12 a.m. Due to the lateness of the Board Agent, there was insufficient time for the parties to discuss the names of employees on the eligibility list, which

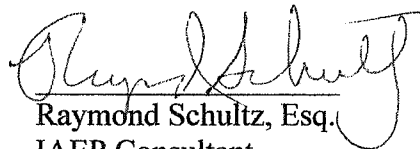
included occasional workers, employees who had not worked for a long period of time, and a former supervisor.

As the time for the election came, and the Union representatives were questioning the names of the casual employees on the list, the Board Agent simply stated that everyone on the list would be eligible to vote. After the election started, the Agent later changed this advice, after reviewing a binder, and stated that the Union observer could in fact challenge the voters. Four challenges were ultimately made by the union observer, and allowed by the Board Agent. However, at least 2 voters that the Union observer would have challenged, had it not been for the advice of the Board Agent, had already cast their ballots. The Employer ultimately won the election by one vote, 15-14.

For these reasons, the IAEP submits that the results of the election must be voided and a new election ordered. The Union observer failed to challenge at least 2 ballots, based on instructions from the Board Agent, thus striking at the heart of the election and directly affecting the outcome of the election.

The IAEP is prepared to submit documentation and testimony in support of the objections.

Respectfully submitted,



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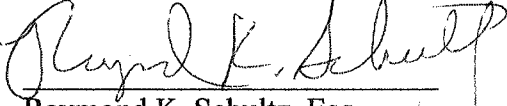
Dated: December 22, 2011

CERTIFICATE OF SERVICE

The Union's objections have been served by First Class Mail on December 22, 2011, on the following:

Claude T. Harrell, Regional Director
National Labor Relations Board
300 Hamilton Blvd. Suite 200
Peoria, IL 61602

Stuart Brown
Metro Medical Services
5112 Forest Hills Ct.
Love Park, IL 61111-8304


Raymond K. Schultz, Esq.