

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 21**

PARAGON SYSTEMS, INC.

Employer

and

Case 21-UD-070439

MANUEL GARCIA, An Individual

Petitioner

and

INTERNATIONAL UNION, SECURITY,
POLICE AND FIRE PROFESSIONALS OF
AMERICA (SPFPA)

Union

REPORT ON OBJECTIONS

This report contains my recommendations concerning the Petitioner's objections to the election in the above-captioned matter. As set forth below, I conclude that Petitioner's Objections Nos. 1, 2, 3, 4, and 5 should be overruled and recommend that a Certification of Results of Election be issued.

Procedural Background

The petition in this matter was filed on December 8, 2011. Pursuant to a Stipulated UD Election Agreement approved on December 22, 2011, an election was conducted by mail ballot beginning on January 19, 2012, among the employees of the Employer, in the unit agreed appropriate for the purposes of collective bargaining.¹ The tally of ballots, which was served upon the parties immediately following the mail ballot count on February 2, 2012, showed that of approximately 142 eligible voters, 62 cast ballots in favor of withdrawing the authority of the

¹ All full time and regular part time armed and unarmed security officers and lead security officers (Sergeants), performing guard duties as defined in Section 9(b)(3) of the National Labor Relations Act, as amended, employed by Paragon Systems, Inc. in the counties of San Diego, San Bernardino, Riverside and Imperial, California, pursuant to a contract between the Employer and the United States Department of Homeland Security, Federal Protective Services ("DHS/FPS") Contract Number GS-07F-0420N, or its successor(s); excluding all other employees, temporary employees, office clericals, managerial personnel, confidential personnel, and supervisors as defined by the National Labor Relations Act.

bargaining representative to require, under its agreement with the Employer, that employees make certain lawful payments to the Union in order to retain their jobs, and 24 cast votes against this proposition. There were two void ballots and two challenged ballots, which were insufficient in number to affect the results of the election.

On February 9, 2012, the Petitioner filed timely objections to the election, copies of which were thereafter served by the Acting Regional Director upon the Employer and the Union. Pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, the undersigned, after reasonable notice to the parties to present relevant evidence, has completed an investigation of the objections and hereby issues her report thereon.

The Objections and Recommendations

Objection No. 1

The mailing of the ballots were (sic) improperly managed. A number of individuals received their ballots the day before the ballots were due, on the date the ballot was due and the day after the ballot was due, and some employees did not receive their ballots!

Objection No. 2

Nowhere in the instructions was a percentage of the votes needed to win was reflected (sic). The word majority was reflected more than once.

Objection No. 3

A negative letter from Mr. Michael Huff citing loss of wages and other benefits sent to employees eligible to vote prior to the dateline. No we do not consider this type of information as campaigning we find it tampering with the election with non-truths!

Objection No. 4

I was supposed to have received a copy of the Excelsior listing on my email. I did not find it!

Objection No. 5

Two people were set aside because their employment with Paragon Systems could not be confirmed.

Notwithstanding notice from the Region to submit evidence in support of the objections within 7 days after the filing of the objections, the Petitioner failed to present any evidence in support of these objections.²

It is well settled that the failure to submit evidence in support of objections in a timely manner results in the overruling of any such objections. In this regard, in Star Video Entertainment L.P., 290 NLRB 1010 (1988), the Board noted that the time limits set forth in the Board's Rules and Regulations concerning the submission of evidence in support of objections are to be strictly applied. In addition, the Board has held that it was an error to accept evidence in support of objections after the time period set forth in the Rules and Regulations, and in the absence of a timely request for an extension having previously been granted. Public Storage, Inc., 295 NLRB 1034 (1989).

Here, the Petitioner failed to timely submit any evidence in support of the objections, and I neither granted, nor was requested to grant, additional time to the Petitioner to submit evidence in support of the objections.

Accordingly, inasmuch as the Petitioner failed to timely submit evidence in support of the objections, I recommend that Objections Nos. 1, 2, 3, 4 and 5 be overruled.

² By letter dated February 10, 2012, the Acting Regional Director notified the Petitioner of the requirement to submit the evidence available to it in support of the objections by February 16, 2012. In addition, the Board Agent assigned to the investigation of the objections spoke with the Petitioner by telephone on February 13, 2012, reminded the Petitioner of the deadline to submit evidence in support of the objections and offered to make himself available for an affidavit from the Petitioner in support of the objections. The Petitioner declined to make arrangements for the presentation of evidence in support of the objections at that time and advised the Board Agent that he would have an attorney contact the Board Agent. The Board Agent confirmed this information in an email to the Petitioner on February 13, 2012, and asked that the Petitioner or his attorney contact the Board Agent to make arrangements for the presentation of evidence in support of the Petitioner's objections. There were no subsequent communications from the Petitioner or his attorney, and the Petitioner did not submit any evidence in support of the objections.

Conclusion

In light of the Petitioner's failure to timely submit evidence in support of the objections, I recommend that Petitioner's Objections Nos. 1, 2, 3, 4 and 5 be overruled in their entirety, and that a Certification of Results of Election be issued.

Right to File Exceptions: Pursuant to the provisions of Section 102.69 of the National Labor Relations Board's Rules and Regulations, Series 8 as amended, you may file exceptions to this Report with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570-0001. Under the provisions of Section 102.69(g) of the Board's Rules, documentary evidence, including affidavits, which a party has timely submitted to the Regional Director in support of its objections or challenges and that are not included in the Report, is not part of the record before the Board unless appended to the exceptions or opposition thereto that the party files with the Board. Failure to append to the submission to the Board copies of evidence timely submitted to the Regional Director and not included in the Report shall preclude a party from relying on that evidence in any subsequent related unfair labor practice proceeding.

Procedures for Filing Exceptions: Pursuant to the Board's Rules and Regulations, Sections 102.111 – 102.114, concerning the Service and Filing of Papers, exceptions must be received by the Executive Secretary of the Board in Washington, D.C. by close of business on **March 6, 2012**, at 5 p.m. (ET), unless filed electronically. **Consistent with the Agency's E-Government initiative, parties are encouraged to file exceptions electronically.** If exceptions are filed electronically, the exceptions will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time** on the due date. Please be advised that Section 102.114 of the Board's Rules and

Regulations precludes acceptance of exceptions filed by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file.³ A copy of the exceptions must be served on each of the other parties to the proceeding, as well as to the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing exceptions electronically may be accomplished by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, select the E-Gov tab, and then click on the E-filing link on the pull down menu. Click on the "File Documents" button under Board/Office of the Executive Secretary and then follow the directions. The responsibility for the receipt of the exceptions rests exclusively with the sender. A failure to timely file the exceptions will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

DATED at Los Angeles, California, this 21st day of February, 2012.



Olivia Garcia
Regional Director
Region 21

³ A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

February 9, 2012

P.02

From: MANUEL Garcia Paragon Security Systems Employee
 To: Region 21 UNITED STATES OF AMERICA, National Labor Relations Board

Re: Official Secret Ballot to withdraw the authority of INTERNATIONAL UNION, SECURITY, Police and Fire Professionals OF AMERICA (SPFPA).

Dear Sirs:

As the petitioner to have the authority of INTERNATIONAL UNION, SECURITY, Police and Fire Professionals OF AMERICA (SPFPA) removed I object to the results of the Noting for the following specified reasons.

1. The marking of the ballots were improperly managed. A number of individuals received their ballots the day before the ballots were due, on the date the ballot was due and the day after the ballot was due and some employees did not receive their ballots!
2. Nowhere in the instructions was a percentage of the votes needed to win was reflected. The word majority was reflected more than once.
3. A negative letter from Mr. Richard Korf citing loss of wages and other benefits sent to employees eligible to vote prior to the date. No one do not consider this type of information as campaigning we find it to be temporary with the election with non-truths!
4. I was supposed to have received a copy of the excalson history on my email, I did not find it!
5. Two people were set aside because their employment with Paragon Systems could not be confirmed

Manuel Garcia
 Petitioner