

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 5**

**MILLERCOORS, LLC**

Employer

Cases **5-RC-87985  
5-CA-89566  
5-CA-92796**

**and**

**TEAMSTERS BREWERY & SOFT DRINK  
WORKERS CONFERENCE A/W  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS**

Petitioner

**REPORT ON OBJECTIONS, ORDER CONSOLIDATING CASES**

**AND**

**NOTICE OF HEARING**

Pursuant to a Stipulated Election Agreement<sup>1</sup> approved by the undersigned on August 30, 2012<sup>2</sup>, a secret-ballot election was conducted under the supervision of the Regional Director on September 27 and September 28 with the following results:

Approximate number of eligible voters:	360
Number of void ballots:	0
Number of votes cast for Petitioner:	167
Number of votes cast against participating labor organization:	179
Number of valid votes counted:	346
Number of challenged ballots:	5
Number of valid votes counted plus challenged ballots:	351

The challenged ballots are not sufficient in number to affect the results of the election.

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<sup>1</sup> The unit is: "All full-time and regular part-time production and maintenance employees employed by the Employer at its Elkton, Virginia facility, but excluding all salaried employees, temporary employees, storeroom employees, quality assurance employees, nurses, office clerical employees, professional employees, managers, guards and supervisors as defined in the Act." The eligibility period is the payroll period ending, Sunday, August 19, 2012.

<sup>2</sup> Hereinafter, all dates are 2012 unless otherwise specified.

On October 5, the Petitioner filed timely objections to conduct affecting the results of the election.<sup>3</sup> The objections are attached hereto as Exhibit A.

## **THE OBJECTIONS**

On March 14, 2013, the Petitioner withdrew its Objections 6, 8, 9, 10, 11, and 13.

Accordingly, I hereby approve the withdrawal of these objections.

### **Objections 1-4 and 7**

#### **Objection 1**

During the critical period commencing on August 24, 2012, the Employer initiated an aggressive campaign of threats that voting for the Union would result in losses in current wages, benefits, working conditions and jobs.

#### **Objection 2**

On September 13, 2012, the national Vice President of Manufacturing Operations, Coleen Reiter, in a captive audience meeting threatened that wage negotiations would start at “zero” if the Union won the election.

#### **Objection 3**

During the critical period, the Employer issued a daily flood of anti-Union literature falsely describing the loss of jobs, wages, benefits and favorable working conditions if the workers voted for the Union and the supervisors and certain non-supervisory officials would use the literature to interrogate and coerce the employees at the daily pre-shift meeting.

#### **Objection 4**

This threatening literature was delivered to the various break rooms by supervisors and certain non-supervisory officials who would remove the Union’s literature from the various break rooms.

#### **Objection 7**

During the critical period, supervisors and certain non-supervisory officials would engage individual employees at their work stations to coerce them into voting against the Union.

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<sup>3</sup> The petition was filed on August 24. The undersigned will consider on its merits only that alleged interference which occurred during the critical period which begins on and includes the date of the filing of the petition and extends through the election. *Goodyear Tire and Rubber Company*, 138 NLRB 453 (1962).

In support of the allegations in Objections 1-4 and 7, the Petitioner relies on the same evidence submitted and adduced during the investigation of the unfair labor practice charges it filed in Cases 5-CA-89566 and 5-CA-92796. The charge alleges, in part, violations of the Act substantially identical to those in Objections 1-4, and 7. On March 11, 2013, an Amended Order Consolidating Cases, Consolidated Complaint and Notice of Hearing issued in 5-CA-89566 and 5-CA-92796. Therefore, in view of the similarity of the Petitioner's Objections 1-4 and 7 with the unfair labor practices alleged in Case 5-CA-89566 and 5-CA-92796 and since complaint has issued, I will order consolidation of Case 5-RC-87988 with Case 5-CA-89566 and 5-CA-92796 for purpose of hearing, ruling and decision by an Administrative Law Judge on the issues raised by Petitioner's Objections 1-4, and 7.

### **Objections 5, 12, and 14<sup>4</sup>**

#### Objection 5

During the critical period, supervisors and these certain non-supervisory officials began to take their breaks in the production area break rooms in order to engage in surveillance of the pro-Union employees, to persuade them that the handbills describing what they would lose if they voted for the Union were accurate and to report back to management what they observed.

In support of Objection 5, the Petitioner relies on statements from five employees.

Employee A stated that Maintenance Planner and Scheduler Barry Taylor began to take his break in the packaging break room after the petition was filed. According to Employee A, prior to the filing of the petition, Taylor did not take his break with the employees. Employee A stated that whenever Taylor was in the break room with employees, Taylor would always want to speak about the Union, but since the election, Taylor has not taken his break in the packaging break room.

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<sup>4</sup> The fact that an unfair labor practice charge alleging the same conduct as in the objections may have been dismissed does not require pro forma dismissal of the objections. *ADIA Personnel Services*, 322 NLRB 994 fn. 2 (1997).

Employee B stated that World Class Manufacturing Manager turned shift Supervisor Carl Hines also took his break in the employees' break room during the organizing campaign.

Employee B stated that Hines has not taken his break with the employees since the election.

Employee C stated that there is a window in the break room that leads to the smoking area. Employee C stated that Area Manager Jeff Hewitt would take smoke breaks in the smoking area and would watch the break room through the window. Employee C also stated that the hallway from the break room leads to the Shift Supervisors' office and Shift Supervisors could hear what was being said in the break room. Any time the employees wanted to openly discuss the Union they would have to shut the door to the break room. Employee C stated that this caused concern because it was unusual for the break room door to be shut so it would catch a supervisor's attention if someone shut the door.

Employee D stated Hewitt watched Employee D from the smoking area as Employee D left pro-Union flyers in the break room.

Employee E stated that World Class Manufacturing Manager turned shift Supervisor Carl Hines, Supervisor Lamont Appleton, and Supervisor Denise See watched Employee E speak with coworkers on the floor.

The Petitioner denies it engaged in any objectionable conduct.

As it appears that substantial and material issues of fact have been raised which can best be resolved by record testimony, I shall direct that a hearing be held with respect to the issues raised by Petitioner's Objection 5, which will be consolidated for ruling and decision by an Administrative Law Judge in the same consolidated proceeding described above.

#### Objection 12

Non-supervisory employees who were not eligible to participate in the election were permitted to distribute anti-Union literature and anti-Union T-shirts throughout the plant during working hours without any restriction by management or supervisors.

In support of Objection 12, the Petitioner relies on statements from three employees. Employee F stated that several salaried employees, including management, were on the floor talking with Employee F's coworkers during work.

Employee G stated that salaried employees Sandy Dean, who works in scheduling; Brian Jackson, who works in quality assurance; and Rachel Jackson, who works in public relations; came onto the packaging floor during work. Employee G stated that these salaried employees only spoke to people who were known to be Union supporters. According to Employee G, since the election, salaried employees have not been on the floor.

Employee H stated that salaried employees Kathy Paterson, who works in quality assurance, and Michelle Mamola, who works in the packaging department, came into the door of the old warehouse break room on a golf cart. Paterson and Mamola both had stacks of papers in their hands and walked into the break room.

The Employer denies it engaged in any objectionable conduct.

As it appears that substantial and material issues of fact have been raised which can best be resolved by record testimony, I shall direct that a hearing be held with respect to the issues raised by Petitioner's Objection 12, which will be consolidated for ruling and decision by an Administrative Law Judge in the same consolidated proceedings described above.

#### Objection 14

The "Vote No" Committee members were permitted to have unrestricted access throughout the facility to distribute anti-Union literature and T-shirts and to engage in other campaign activities against the Union.

In support of Objection 14, the Petitioner relies on statements from four employees. Employee I stated on at least three occasions an employee member of the Vote No Committee

took a maintenance golf cart during that employee's shift and drove around the facility to hand out Vote No t-shirts and anti-Union handbills.

Employee D stated that the same employee member of the Vote No Committee rode on the golf cart, being driven by another employee member of the Vote No Committee, with a stack of papers in hand. Employee D was told by a coworker that the same employee member of the Vote No Committee always left the beer flow office around 8:30 a.m., during that employee's shift, and would ride around and drop off stacks of anti-Union flyers in the break rooms.

Employee C stated that the same employee member of the Vote No Committee used Employer property to print a stack of anti-Union flyers in the warehouse office.

Employee H stated that the same employee member of the Vote No Committee was on a maintenance golf cart handing out t-shirts that said Vote No during that employee's shift.

The Employer denies it engaged in any objectionable conduct.

As it appears that substantial and material issues of fact have been raised which can best be resolved by record testimony, I shall direct that a hearing be held with respect to the issues raised by Petitioner's Objection 14, which will be consolidated for ruling and decision by an Administrative Law Judge in the same consolidated proceeds described above.

### **SUMMARY**

The undersigned orders that Petitioner's Objections 1-5, 7, 12, and 14 be set for hearing with the unfair practice labor charges alleged in the Amended Order Consolidating Cases, Consolidated Complaint and Notice of Hearing which issued March 11, 2013, and approves the withdrawal of Objections 6, 8, 9, 10, 11, and 13.

**ORDER**

IT IS HEREBY ORDERED, pursuant to Section 102.33 and 102.69 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, that Case 5-RC-87985, be, and it hereby is, consolidated with Cases 5-CA-89566 and 5-CA-92796 for the purpose of hearing, ruling, and decision by an Administrative Law Judge on the issues raised by the Objections raised in Case 5-RC-87985.

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that commencing at 10:00 a.m., E.D.T., on the 29<sup>th</sup> day of April 2013, in a Courtroom, Staunton Circuit Court, 113 East Beverly Street, Staunton, Virginia, and on consecutive days thereafter until concluded, a hearing will be conducted before an Administrative Law Judge of the National Labor Relations Board on the issues raised by the Petitioner's Objections in Case 5-RC-87985 set forth above and on allegations set forth in the Complaint issued in Case 5-CA-89566 and 5-CA-92796, at which time parties will have the right to appear in person, or otherwise, and give testimony.

Dated at Baltimore, Maryland, this 19<sup>th</sup> day of March 2013.

(SEAL)

/s/ Albert W. Palewicz

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Albert W. Palewicz, Acting Regional Director  
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