

NOT TO BE INCLUDED
IN BOUND VOLUMES

PGB
Boston, MA

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

ASSOCIATES AND LEISURE ACTIVITIES, LLC

Employer

and

Case 01-RC-087226

INTERNATIONAL ALLIANCE OF THEATRICAL
STAGE EMPLOYEES, MOVING PICTURE
TECHNICIANS, ARTISTS AND ALLIED CRAFTS
OF THE UNITED STATES AND CANADA,
LOCAL 11

Petitioner

DECISION AND DIRECTION OF SECOND ELECTION

The National Labor Relations Board has considered an objection to an election held September 23, 2012, and the hearing officer's report recommending disposition of it. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 2 for and 2 against the Petitioner, with 5 challenged ballots.¹

The Board has reviewed the record in light of the exceptions² and briefs, has adopted the hearing officer's findings and recommendations,³ and finds that the election must be set aside and a new election held.

¹ Prior to the hearing, the parties stipulated that, for purposes of this proceeding only, all of the individuals who cast challenged ballots were ineligible voters.

² In the absence of exceptions, we adopt pro forma the hearing officer's recommendations to overrule Petitioner's Objections 2 and 4.

³ In adopting the hearing officer's recommendation to sustain Petitioner's Objection 3, we do not rely on her statement that the Employer's statements to employees were "not protected by

DIRECTION OF SECOND ELECTION

A second election by secret ballot shall be held among the employees in the unit found appropriate, whenever the Regional Director deems appropriate. The Regional Director shall direct and supervise the election, subject to the Board's Rules and Regulations. Eligible to vote are those employed during the payroll period ending immediately before the date of the Notice of Second Election, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that began less than 12 months before the date of the first election and who retained their employee status during the eligibility period and their replacements. *Jeld-Wen of Everett, Inc.*, 285 NLRB 118 (1987). Those in the military services may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the payroll period, striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike that began more than 12 months before the date of the first election and who have been permanently replaced. Those eligible shall vote whether they desire to be represented for collective bargaining by International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States and Canada, Local 11.

To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the full names and addresses of all the eligible voters

Section 8(c) of the Act.” Section 8(c) is not applicable in representation cases. See *Kalin Construction*, 321 NLRB 649, 652 (1996).

must be filed by the Employer with the Regional Director within 7 days from the date of the Notice of Second Election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election if proper objections are filed.

Dated, Washington, D.C., April 4, 2013.

Mark Gaston Pearce, Chairman

Richard F. Griffin, Jr., Member

Sharon Block, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD