

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION TWENTY-FIVE

UHS MIDWEST CENTER FOR YOUTH AND FAMILIES, INC.¹
Employer

and

25-RC-103791

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION
LOCAL 2038, GLDC-ACD, AFL-CIO
Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held on May 9 and 10, 2013, before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board, to determine an appropriate unit for collective bargaining.²

I. ISSUE

The Petitioner³ seeks an election within a unit comprised of the approximately 80 individuals employed by the Employer as hourly and non-management salaried personnel at its Kouts, Indiana facility (herein the Kouts facility). Initially, the Petitioner stated that it would

¹ The Employer's name is hereby changed to reflect its correct legal name.

² Upon the entire record in this proceeding, the undersigned finds:

- a. The hearing officer's rulings made at the hearing are free from error and are hereby affirmed.
- b. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
- c. The labor organization involved claims to represent certain employees of the Employer.
- d. A question affecting commerce exists concerning the representation of certain employees of the employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

³ At the hearing the Petitioner filed a motion to amend the petition to accurately reflect that although the original petition was signed by an individual he was in fact signing on behalf of the Union and also to reflect that the Union is the Petitioner. The Hearing Officer received the motion over the Employer's objection that the Petitioner should re-file the petition and not be allowed to amend it at hearing. The Petitioner's motion is hereby granted. Further, it is determined that the Petitioner is a labor organization as defined by the Act.

exclude from the unit the positions of executive assistant, shift coordinator- Kouts and program coordinator. However, in its post-hearing brief, the Petitioner agreed to the inclusion of these job classifications. The Employer contends that the petitioned-for unit is not appropriate and that an appropriate unit should be comprised of all professional and non-professional regular full-time, regular part-time and per-diem employees employed by the Employer at the Kouts facility and at its facility located in Valparaiso, Indiana, herein the Valparaiso facility. The unit proposed by the Employer includes additional employees, i.e., approximately: 23 employees employed at the Valparaiso facility, 10 per-diem employees that work at both facilities, and three community relations representatives. The Petitioner argues that employees at the Valparaiso facility and the community relations representatives do not share a substantial community of interest with the employees at the Kouts facility. The Petitioner's position on the per-diem employees is unclear.

II. DECISION

For the reasons discussed in detail below, including that the employees employed at the Valparaiso facility share a substantial community of interest with the employees at the Kouts facility, it is concluded that the professional and non-professional regular full-time, regular part-time and per-diem employees employed at the Employer's facilities located in Kouts and Valparaiso, Indiana constitute a unit appropriate for purposes of collective bargaining.

The Petitioner has clearly indicated a desire to represent both professional and non-professional employees within a single unit, if appropriate. Section 9(b)(1) of the Act prohibits the inclusion of professional employees in a unit with employees who are non-professional, unless a majority of the professional employees vote for inclusion in such a unit. Accordingly, in conducting the election herein, the election will be conducted in accord with the decision in Sonotone Corp., 90 NLRB 1236 (1950). See Yukon Kushokwin Health Corp., 328 NLRB No. 101 (1999). Thus, I shall order separate elections among the groups of professional and non-professional employees. The employees in the professional voting group will be asked two questions on their ballots: 1) whether they desire to be included in a group composed of nonprofessional employees, and 2) whether they desire to be represented by the Petitioner. If a majority of the professional employees vote for inclusion in the unit with non-professional employees, they will be so included. Their votes on the second question will then be counted with the votes of the non-professional employees voting to decide the representative for the entire combined unit of professionals and non-professionals. The following would then constitute a unit appropriate for purposes of collective bargaining:

All regular full-time and regular part-time professionals including, Registered Nurses (RN), Licensed Teachers, Licensed Therapists, Master-Prepared Therapist, Intake Specialists, Programs Coordinators, and Recreation Therapist; and regular full-time and regular part-time nonprofessional employees, including all Behavioral Health Workers (BHW), LPNs, EVS or Housekeepers, Maintenance Workers, Shift Coordinators, Receptionists, Medical Records/Risk Manager, Unit Clerks, Executive Assistant and per diem employees averaging four or more hours of work per week for the last quarter prior to the eligibility date, employed by the Employer at its facilities located in Kouts and

Valparaiso, Indiana; but excluding, the Chief Executive Officer, Director of Human Resources, Director of Utilization Review and Performance Improvement, Director of Clinical Services, Director of Business Development, Director of Plant Operations, Director of Intake, Director of Nursing, Director of Education, Program Manager, Staff/Shift Supervisors, Billing Specialist, guards and other supervisors as defined in the Act.

If, on the other hand, a majority of the professional employees do not vote for inclusion in the unit with non-professional employees, they will not be included with the non-professional employees. In such circumstances, the professional employees' votes on the second question will be separately counted to decide whether or not they wish to be represented by the Petitioner in a separate professional unit⁴ and the following two groups of employees will constitute separate units appropriate for the purposes of collective bargaining:

All regular full-time and regular part-time professionals including Registered Nurses (RNs), Licensed Teachers, Licensed Therapists, Master-Prepared Therapist, Intake Specialists, Programs Coordinators, and Recreation Therapist, and per diem employees averaging four or more hours of work per week for the last quarter prior to the eligibility date, employed by the Employer at its facilities located in Kouts and Valparaiso, Indiana;

All regular full-time and regular part-time nonprofessionals including all Behavioral Health Workers (BHW), LPNs, EVS or Housekeepers, Maintenance Workers, Shift Coordinators, Receptionists, Medical Records/Risk Manager, Unit Clerks, Executive Assistant, and per diem employees averaging four or more hours of work per week for the last quarter prior to the eligibility date, employed by the Employer at its facilities located in Kouts and Valparaiso, Indiana;

Excluding from both units: the Chief Executive Officer, Director of Human Resources, Director of Utilization Review and Performance Improvement (Dir. of UR and PI), Director of Clinical Services, Director of Business Development, Director of Plant Operations, Director of Intake, Director of Nursing, Director of Education, Program Manager, Staff/Shift Supervisors, Billing Specialist, guards and other supervisors as defined in the Act.

In addition, it is concluded that the approximate three community relations representatives will be permitted to vote under challenge in the nonprofessional unit.

⁴ The parties agreed that the job classifications included in the professional group are professionals as defined in Section 2(12) of the Act because they are engaged in work requiring licensure, certification or are master-prepared.

The unit(s) found appropriate herein consists of approximately 100 employees for whom no history of collective bargaining exists.

III. STATEMENT OF FACTS

The Employer is an Indiana corporation that provides behavioral health services to adolescents and children with mental illness at its facilities located in Kouts and Valparaiso, Indiana. The Valparaiso facility is also known as the South Shore Academy. The Employer is owned by a corporation called Universal Health Services whose principal business address is in Pennsylvania. At the Kouts facility, the Employer provides therapeutic residential treatment care for patients in four separate 15-bed units known as the North, East, South and West units. The North unit houses pediatric male patients and the East unit serves pediatric female patients. Pediatric patients are defined as being between the ages of 6 and 12 years old. The South unit houses adolescent female patients and the West unit serves adolescent male patients. Adolescent patients are between the ages of 13 and 21 years old. At the Valparaiso facility, the Employer provides residential treatment care in a one 15-bed unit that serves female adolescent patients. The Valparaiso facility is about 14 miles away from the Kouts facility.

The Employer provides its patients at all 5 units with a form of therapy known as Dialectical Behavioral Therapy (DBT). DBT is offered in modules and the same modules are offered at all units. All employees are trained in DBT. The Employer has an accreditation from the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) certifying that it has met the requirements for the behavioral health care accreditation program. The accreditation dated September 22, 2012 only references the Kouts, Indiana address although the Employer represents that the accreditation covers the Valparaiso location too. There is no evidence indicating that the Valparaiso facility is not accredited. The Employer has one common website address, www.midwest-center.com, and one common toll free number. Admissions are conducted at the Kouts facility regardless of whether the patient will be admitted into Kouts or Valparaiso. Every unit is staffed 24 hours a day, 7 days a week by clinical staff trained in DBT. Patients are provided with individual and family therapy. Additionally, the program includes an accredited on-site school to provide ongoing year-round core curriculum education in the primary and secondary grades.

The Employer operates under a common Board of Directors. The Chief Executive Officer (CEO) reports to the Board and oversees the operations at both facilities. His office is located at the Kouts facility. He has a staff of eight directors that report to him. These directors also have offices at Kouts but have responsibilities over both facilities, as will be discussed more fully below. Mid-level supervisors report to the different directors.⁵ The Employer employs approximately 80 non-management employees at Kouts and 23 non-management employees at Valparaiso. The Valparaiso facility has a Program Manager that works there as a therapist 50% of her time, and the other 50% of the time she supervises two behavioral health workers (BHWs), a shift coordinator and a recreational therapist at Valparaiso. There are no other supervisory or managerial employees located at the Valparaiso facility. As a therapist, the

⁵ There is no dispute between the parties that all directors and mid-level supervisors are Section 2(11) supervisors that should be excluded from any unit found appropriate herein.

Program Manager carries a caseload of five patients and runs group therapy sessions. She spends at least one day a week at Kouts attending clinical meetings and meeting the CEO. Besides the four employees noted above, the Program Manager does not supervise other employees that work at Valparaiso, such as a teacher, an RN, and LPNs. Those employees report to different specific directors located at the Kouts facility. The Program Manager can discipline her direct reports. She is part of the risk management team that is responsible for making monthly safety rounds at the Valparaiso facility. The other members of the risk management team are the CEO, the Director of Human Resources, the Director of Nursing and the Director of Education, all of which have offices at the Kouts facility and make safety rounds at the Valparaiso facility.

The Director of Human Resources, whose office is at the Kouts facility, oversees all human resources functions at both facilities. She interviews, screens, and makes job offers to all applicants regardless of whether they will work at Kouts or Valparaiso. All new hires, regardless of location, go through the same new employee orientation program which is conducted at Kouts. All new hires are placed on a 90-day probation period and receive a performance evaluation at the end of the 90-day period. All non-probationary employees receive a performance evaluation in December and all are eligible to participate in the Employer's Service Excellence Program, which is an awards program. All discipline issued to all employees is reviewed beforehand by the Director of Human Resources. There is a common disciplinary procedure and common forms are used for issuing discipline to all employees. All personnel records are maintained at Kouts. All employees enjoy the same benefits depending on whether they are full-time or part-time employees, regardless of their work location. The benefits package includes healthcare, vacations, and paid time off. There is a common dispute resolution procedure and form that can be used by all employees. This procedure is centrally administered by the Director of Human Resources.

Payroll, and time and attendance for all employees is administered by an executive assistant whose office is at the Kouts location. The executive assistant reports directly to the CEO. She also provides information systems (IS) support to all employees and is responsible for ensuring compliance with the Employer's credentialing process. Credentialing requires maintaining accurate insurance information and information to maintain access privileges for doctors at both facilities. There is a receptionist area at both facilities. Currently, the Employer employs one main receptionist and two evening/weekend receptionists. The receptionists report to the Dir. of Utilization Review and Performance Improvement, who also oversees the medical records department. The receptionist area is covered, on a rotating basis, by the unit clerks at the Valparaiso facility and the executive assistant.

Patients are admitted into both facilities by Intake Specialists located in Kouts. Intake Specialists are supervised by the Director of Intake, which is also located in Kouts. The Director of Intake reports to the CEO. The Valparaiso facility does not have a separate admissions function. However, medical records for residents at the Valparaiso facility are kept at that facility.

The purchasing department is located at the Kouts facility and falls under the responsibility of the Director of Plant Operations, who also supervises housekeeping and maintenance employees. The Valparaiso facility's unit clerk may order miscellaneous office

supplies but additional items such as toiletries, socks, and other personal items that are provided to patients are supplied by the purchasing department and stocked at Valparaiso by the housekeepers and maintenance employees who are also responsible to stock the Kouts facility.

Patients can continue their schooling while receiving residential treatment at the facilities. There are teachers at both facilities for this function. All teachers report to the Director of Education, whose office is located in Kouts. It is unclear how many teachers are currently employed at Kouts but there is one teacher at the Valparaiso facility. The Director of Education visits Valparaiso at least twice a month to meet with the teacher there.

The Director of Clinical Services (DCS) has an office at the Kouts facility but oversees all of the behavioral health workers (BHW), interns, staff supervisors and shift coordinators at both locations. BHWs and shift supervisors report to the staff supervisors. BHWs at both facilities work three different shifts, first shift is from 7 am to 3:30 pm, second shift is from 3:00 pm to 11:30 pm, and third shift is from 11 pm to 7:30 am. These are the same shifts that RNs, LPNs, and shift coordinators work. The shift coordinators receive a \$2 pay differential over the BHWs pay. Shift coordinators are responsible for checking that patient charts are accurate and report any defects to the medical records department to be corrected. The BHWs are assigned patients on a daily basis and ensure that patients follow their daily program. There is a Program Coordinator located at Kouts that also reports to the DCS. The Program Coordinator is responsible for providing education and training to employees regarding the clinical program used at the facilities. She puts together the Dialectical Behavioral Therapy (DBT) module program of the week, runs DBT parent classes on weekends, and researches and delivers DBT training to staff at both locations.

The Director of Nursing oversees all RNs and LPNs regardless of work location. There are approximately 23 RNs employed, one of which is located at the Valparaiso facility. It appears that about half of the RNs are either full-time or part-time employees, and that the other half work on a per diem, i.e. as needed basis, as described below. There are 3 LPNs, one of which is full-time, one is part-time and one is per diem. There does not appear to be an LPN at Valparaiso at this time. The Director of Nursing interviews all RN and LPN applicants and provides training to all new employees. She also disciplines and evaluates her direct reports' performance regardless of their location. It is unknown how often she goes to the Valparaiso facility other than the fact she is part of the Risk Management Team. She holds several monthly meetings for all RNs and LPNs but it is unknown if any of the meetings are held at the Valparaiso location or if the Valparaiso employees travel to Kouts to attend the meetings.

Per diem employees (also known as PRN) are employees that work on an as needed basis, at least one shift per week. Traditionally, the Employer employs some BHWs, RNs and LPNs on a per diem basis. The Employer employs approximately 9 to 10 PRN employees. They are not eligible to receive employee benefits. However, PRN employees receive a \$1.50 an hour pay differential over base pay. Some per diem employees work regularly at one facility and some work at both facilities. The frequency of PRN employees working at one or both facilities is unknown.

There are three community relations representatives employed by the Employer at the Kouts facility that report directly to the Director of Business Development. They are responsible for establishing and maintaining business relationships with outside referral sources. They also serve as a liaison between the Employer and referral sources and outside agencies. They conduct training for the clinical staff although it is unknown how often or with what frequency. The majority of the time they are out in the community visiting hospitals, families, mental health agencies and other referral contacts.

It appears that there are employees that are assigned to work at one or the other facility on an as needed basis. For instance, one of the BHWs that works at the Valparaiso facility also works as the evening/weekend receptionist at the Kouts facility. Record evidence reflects that during a period of four weeks between January and February of 2013, this employee worked almost 100 hours as a receptionist at Kouts, almost 14 hours as a BHW at Kouts and almost 23 hours as a BHW at Valparaiso. Another employee worked as a BHW at the Kouts facility for 24 days in September and October 2012, and then worked as a unit clerk at the Valparaiso facility for the following 16 days in October 2012. It is unknown whether this was a permanent or temporary transfer or change in jobs. A RN that worked at the Kouts facility in February 2013 worked a shift at the Valparaiso facility during the same pay period. During 26 work days between January and March 2013, another RN worked a majority of her shifts at the Kouts facility and 7 days at the Valparaiso facility. Another RN during a 9 day period between February and March 2013, worked 7 days at Kouts and 2 days at the Valparaiso facility. There are times when there is low census, meaning that the units are not at full capacity, and the Employer will send home BHWs based on seniority. However, BHWs are also provided the opportunity to work at another unit or location instead of going home. Additionally, there are times when a patient needs to be transported from one facility to the other. The unit clerk at the Valparaiso facility, the executive assistant at the Kouts facility, and BHWs are mainly involved in transporting patients between the two facilities.

IV. DISCUSSION

The Petitioner seeks to represent the approximately 80 non-management professional and non-professional employees employed by the Employer at its Kouts facility excluding the community relations representatives on the basis that they lack a substantial community of interest with the rest of the petitioned-for single-facility unit. The Employer argues that the Valparaiso facility is a satellite unit of the company and is not a stand-alone organization, whereas the about 23 non-management professional and non-professional employees employed there have a substantial community of interest with the employees employed at the Kouts facility. Thus, the Employer's proposed unit would encompass the employees located at both facilities, including the community relations representatives and all per-diem employees.

A. Single vs. Multi-facility Issue

It is well established that a single-facility unit is presumptively appropriate. Manor Healthcare Corp., 285 NLRB 224 (1987) and Mercy Sacramento Hospital, 344 NLRB 790 (2005). The party opposing the single-facility unit has the burden of overcoming the presumption. Trane, 339 NLRB 866 (2003). In considering whether the single-facility

presumption has been rebutted, the Board examines a number of factors including: centralized control over daily operations and labor relations; the extent of local autonomy; the degree of employee interchange, transfer, and contact; functional integration; similarity of skills, functions and working conditions; supervision; geographic proximity; and bargaining history. New Britain Transportation, 30 NLRB 397 (1999), Mercy Sacramento, supra. The Board considers the degree of interchange and separate supervision to be of particular importance in determining whether the single-facility presumption has been rebutted. Passavant Retirement & Health Center, 313 NLRB 1216, 1218 (1994). Evaluating all of these factors, it is concluded that the non-management employees at the Kouts facility do not share a community of interest distinct and apart from that shared with the non-management employees at the Valparaiso facility.

1. Centralized Control of Daily Operations, Labor Relations, and Functional Integration

The Employer's entire mental health care business is conducted as one organization. The Employer offers the same patient care at every unit within the organization. There are five patient care units, 4 in Kouts and 1 in Valparaiso. There is one common board of directors and one chief executive officer to oversee the entire operation. There are eight director level employees that report to the CEO and have responsibilities over the entire operation. The Valparaiso facility has a part-time managerial employee. There is little, or no, local autonomy at the Valparaiso facility. The patient admission process is performed centrally at Kouts and patient referrals and contacts are developed at Kouts. There is a significant amount of functional integration such as a single department of human resources, purchasing, maintenance and intake covering both facilities. All employees are covered by the same human resources policies, the same benefits and the same terms and conditions of employment. Hiring is centralized, including the training of new employees. The Board in Clarian Health Partners, Inc., 344 NLRB 332 (2005), found a multi-facility unit appropriate where, as in this case, there was a significant degree of centralized administration, management and functional integration among three acute care hospitals.

2. Local Autonomy and Geographic Proximity

The Petitioner argues that the Valparaiso facility should be treated as an independent unit because the Employer has two license numbers with the State of Indiana and two different corporate addresses. The Union also asserts for the first time in its brief that the Employer changed the sign outside of the Kouts' building to read Midwest South Shore. The Employer asserts that each location has a license number because it is a statutory requirement by the State of Indiana. Indiana's Administrative Code, title 465 which handles Department of Child Services, states that a license authorizes the operation of a child caring institution at a specific address. 465 IAC 2-9-15. The fact that the Valparaiso address has a separate license number does not change the fact that it is not operated as a stand-alone institution. Moreover, there is no evidence that the Valparaiso location is separately incorporated. Finally, any signage outside of the buildings is of no consequence given the evidence that the Valparaiso location has no independent autonomy from the Kouts facility. As discussed above, the Valparaiso facility only has a part-time manager and fully depends on the Kouts operation to function with regards to employee supervision, company policies and procedures, patient care and programs, payroll, and admissions, among other things. It is also noted that the two facilities are located only 14 miles

apart or about a 20-minute drive from each other. There is also evidence that employees transport patients from one facility to the other and that employees work at one location or the other, sometimes on the same day. This case is distinguishable from Mercy Sacramento, supra, where the Board found a single-facility unit appropriate given the evidence that despite a high degree of centralized administration and labor policies, the single-facility at issue had its own management structure, with many layers of supervision, its own human resources department, local hiring and locally administered day-to-day labor matters. Thus, the Board found that there was substantial local autonomy. As discussed above, in the instant case the evidence reflects very little to no local autonomy at Valparaiso.

3. Employee interchange, transfer, and contact, Similarity of skills, functions and working conditions and Common supervision

It is unknown how many employees are in each job classification at the Valparaiso facility other than the fact that there are 23 non-management professional and non-professional employees. However, it has been established that there are RNs, LPNs, BHWs, unit clerks, teachers, receptionists and PRN employees at the Valparaiso facility and that all of these employees report to either a director located at the Kouts facility or the part-time program manager. All of these employees have the same job functions and responsibilities as their counterparts at the Kouts facility, attend the same DBT trainings and employee meetings. They enjoy the same employee benefits and are employed under the same corporate policies and practices regarding performance evaluations, discipline and awards. There is also evidence that some employees working as RN, BHW and receptionist work some days at the Valparaiso location and other days at the Kouts location. The Employer's payroll and timekeeping system allows all employees to simply clock in and out of any one of the locations with ease.

4. Conclusion

Based on all of the community of interest factors above, it is concluded that the employees at the Kouts location share a substantial community of interest with the employees at the Valparaiso location. Thus, the petitioned-for unit limited to the employees at Kouts is inappropriate.

B. Per Diem Employees

It is well established that where part-time employees perform work within the unit on a regular basis for a sufficient period of time during each week or other appropriate calendar period, the Board will find that they have a substantial and continuing interest in the wages, hours and working conditions of the full-time employees in the unit. New York Display & Die Cutting Corp., 341 NLRB 930 (2004), Arlington Masonry Supply, Inc., 339 NLRB 817 (2003). The standard used to determine the regularity of part-time employment is to examine whether the employee worked an average of 4 or more hours a week in a quarter preceding the eligibility date. Davison-Paxon Co., 185 NLRB 21 (1970). On-call employees with a substantial working history, substantial probability of employment and regular hiring are considered regular part-time employees by applying to them the Davison-Paxon formula. Davison-Paxon Co., supra, Wadsworth Theater Management, 349 NLRB 122 (2007). In the instant matter, the Employer

employs per-diem, or PRN, employees in the classifications of RN, LPN and BHW. These per-diem employees have the same job duties and responsibilities as the regular full-time and part-time RNs, LPNs and BHWs and report to the same supervisors. They work at either location. They work the same shifts as other employees in their same job classification and receive the same training. Based on the foregoing, the per diem employees are found to be part-time employees whose eligibility to vote will be determined based on the Davison-Paxon standard.

C. Community Relations Representatives

The Petitioner argues that the three community relations representatives should be excluded because they are not physically at the facility and are akin to salesmen. The Employer claims that these employees should be included since practically every other non-management position at Kouts is in the unit. There is little evidence about the community relations representatives other than they report to the Director of Business Development and are responsible for developing contacts and referrals. Like other employees at Kouts, these employees are covered by the same HR policies, benefits and training. The fact that they spend a lot of time outside of the facility developing business relationships does not necessarily preclude them from being in the unit. The Union has agreed to include LPNs, housekeepers, maintenance workers, shift coordinators, receptionists, and the medical records/risk manager within a unit with little evidence that employees in those classifications have substantial interchange or contact. Also, employees in those classifications report to different managers. It would appear that the community relations representatives are no different than the rest of the non-management employees. Historically, the Board is reluctant to leave a residual unit where the employees could be included in the larger group. Huckleberry Youth Programs, 326 NLRB 1272 (1998). However, given the limited information about the community relations representatives' interaction, similarities and/or differences with other non-management employees, they will be allowed to vote subject to challenge.

V. SHOWING OF INTEREST

Since this Decision enlarged the petitioned-for unit, the Petitioner shall have fourteen (14) days from the date of this Decision in which to submit to Region 25 a showing of interest in the multi-facility unit found appropriate herein. See Brown Transport Corp., 296 NLRB 1213 (1989); Casale Industries, Inc., 311 NLRB 951 (1993).

VI. DIRECTION OF ELECTION

Based on the above, absent a sufficient showing of interest in the appropriate unit by the Petitioner within the time period described above, the instant petition will be dismissed by subsequent order. If there is a sufficient showing of interest, the National Labor Relations Board will conduct a secret ballot election among the employees in the unit(s) found appropriate above in accord with the decision in Sonotone, supra. The date, time and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) 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 (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may 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, which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office 2 election eligibility lists, one containing the full names and addresses of all the eligible voters in the professionals unit and a second list with the names and addresses for the eligible voters in the non-professionals unit. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by the undersigned to assist in determining an adequate showing of interest. In turn, the list shall be made available to all parties to the election.

To be timely filed, the list must be received in the Regional Office located at 575 North Pennsylvania St., Rm 238, Indianapolis, Indiana, 46204 **on or before June 25, 2013**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency website, www.nlr.gov,⁶ by mail, or by facsimile transmission at (317) 226-5103. The burden of

⁶ To file the list electronically, go to the Agency's website at www.nlr.gov, select **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

establishing the timely filing and receipt of the list will continue to be placed on the sending party.

Since the list will be made available to all parties to the election please furnish a total of two copies of the list, unless the list is submitted by facsimile or electronically filed, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

VII. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001.

Procedures for Filing a Request for Review: Pursuant to the Board's Rules and Regulations, Sections 102.111 – 102.114, concerning the Service and Filing of Papers, the request for review must be received by the Executive Secretary of the Board in Washington, DC by close of business on **July 2, 2013**, at 5:00 p.m. (ET), unless filed electronically. Consistent with the Agency's E-Government initiative, parties are encouraged to file a request for review electronically. If the request for review is filed electronically, it 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 a request for review by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file.⁷ A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

⁷ 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.

Filing a request for review electronically may be accomplished by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review 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.

SIGNED IN Indianapolis, Indiana, this 18th day of June 2013.

A handwritten signature in black ink that reads "Rik Lineback". The signature is written in a cursive, flowing style.

Rik Lineback
Regional Director
National Labor Relations Board
Region 25
575 North Pennsylvania St., Rm 238
Indianapolis, IN 46204