

Brandon, SD

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

TOTAL FIRE PROTECTION, INC.

Employer

and

Case 18-RC-096195

ROAD SPRINKLER FITTERS LOCAL
UNION NO. 669, UA AFL-CIO

Petitioner

DECISION, ORDER, AND DIRECTION OF SECOND ELECTION

The National Labor Relations Board has considered objections to an election held February 22, 2013, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The revised tally of ballots shows 5 ballots cast for and 10 ballots cast against the Petitioner, with 2 void ballots and 5 challenged ballots, an insufficient number to affect the results.

No exceptions have been filed to the hearing officer's report within the time provided. Accordingly, the Board adopts the hearing officer's findings and recommendations.¹

IT IS ORDERED that the election conducted on February 22, 2013, be set aside and that a new election be conducted.

¹ The Hearing Officer found that Petitioner's objection 2, regarding the Employer's payment to employees for attending the February 15 meeting, had a reasonable tendency to interfere with the employees' free choice in the election. Accordingly, the Hearing Officer recommended that the election be set aside based on objection 2.

DIRECTION OF SECOND ELECTION

A second election by secret ballot shall be conducted 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 election directed herein and who retained their employee status during the eligibility period and their replacements. 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, and employees engaged in an economic strike that began more than 12 months before the date of the election directed herein and who have been permanently replaced. Those eligible shall vote whether they desire to be represented for collective bargaining by Road Sprinkler Fitters Local Union No. 669, UA AFL-CIO.

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 must be filed by the Employer with the Regional Director within 7 days from the date of 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., July 19, 2013.

By direction of the Board:

Farah Z. Qureshi

Associate Executive Secretary