

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Region 18 - Subregion 30

THE AMERICAN BOTTLING COMPANY

Employer

and

TEAMSTERS LOCAL UNION NO. 344,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS

Petitioner

Case 30-RC-110033

**REPORT ON CHALLENGED BALLOTS,  
ORDER DIRECTING HEARING AND NOTICE OF HEARING**

Pursuant to a petition filed on July 29, 2013, and a Stipulated Election Agreement approved by the Regional Director on August 7, 2013, an election by secret ballot was conducted among certain employees of the Employer on September 6, 2013.<sup>1</sup> The results of the election are set forth in the Tally of Ballots issued on September 6, 2013.<sup>2</sup> The challenged ballots are sufficient in number to affect the results of the election.

<sup>1</sup> The appropriate collective-bargaining unit is as follows:

All full-time and regular part-time merchandisers employed out of the Employer's Mount Pleasant, Wisconsin facility; excluding all office clerical employees, guards and supervisors as defined in the Act.

<sup>2</sup> The Tally of Ballots reveals:

Approximate number of eligible voters .....	19
Number of void ballots .....	0
Number of votes cast for Petitioner .....	8
Number of votes cast against participating labor organization .....	7
Number of valid votes counted .....	15
Number of challenged ballots .....	2
Number of valid votes counted plus challenged ballots.....	17

Pursuant to Section 102.69 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, an investigation of the issues raised by the challenged ballots was conducted. I order as follows:

### **THE CHALLENGED BALLOTS**

The Petitioner challenged the ballots of Roland Weier and Michael Stewart because it believes these employees are not employed in the stipulated collective-bargaining unit of employees. The Employer contends that Weier and Stewart are regular part-time employees and are, therefore, included in the stipulated collective-bargaining unit.

### **CONCLUSION AND ORDER**

I conclude that the challenged ballots of Roland Weier and Michael Stewart raise substantial and material issues of fact which can best be resolved upon record testimony received in a formal hearing. Accordingly, pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended,

**IT IS ORDERED** that a hearing be held before a hearing officer designated by the Regional Director for Region Eighteen in the above-entitled matter for the purpose of receiving evidence to resolve the issues raised by the challenged ballots.

**IT IS FURTHER ORDERED** that the hearing officer designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendation to the Board as to the disposition of said issues. Within fourteen (14) days from the date of issuance of such report, any party may file with the Board in Washington, DC, an original and seven (7) copies of exceptions thereto. Immediately

upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director, and a statement of service shall be made to the Board simultaneously with the filing of the exceptions. The rights and obligations are further delineated in Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, and all actions of the parties shall be in accordance with the rules covering this type of proceeding as contained therein. In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with the Board in Washington, DC. If a party wishes to file one of these documents electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. Filing exceptions may be accomplished by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). *Once the website is accessed, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.* 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.

### **NOTICE OF HEARING**

YOU ARE HEREBY NOTIFIED that commencing at **9:30 a.m.** on **September 24, 2013**, and consecutive dates thereafter until concluded, in the **Subregion 30 Hearing Room, 310 West Wisconsin Avenue, Suite 450W, Milwaukee, Wisconsin**, the hearing on the challenged ballots as set forth above will be conducted before a hearing officer of the National Labor Relations Board, at which time and place the parties will

have the right to appear in person to give testimony, and to examine and cross-examine witnesses.

Dated at Milwaukee, Wisconsin, this 17<sup>th</sup> day of September, 2013.

/s/ Marlin O. Osthus  
Marlin O. Osthus, Regional Director  
National Labor Relations Board  
Eighteenth Region  
330 South Second Avenue, Suite 790  
Minneapolis, MN 55401-2221