

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

COASTAL INTERNATIONAL SECURITY, INC.
Employer

and

Case 5-UD-110649

KARIF KING
Petitioner

and

UNION RIGHTS FOR SECURITY OFFICERS
Union

REPORT ON OBJECTIONS

Pursuant to a Stipulated Election Agreement¹ approved on September 4, 2013² a secret-mail ballot election was conducted and the ballots were counted on October 21, with the following results:

Approximate number of eligible voters	174
Number of Void ballots	0
Number of Votes cast in favor of withdrawing the authority of the bargaining representative to require, under its agreement with the Employer, that employees make certain lawful payments to the Union in order to retain their jobs	92
Number of Votes cast against the proposition	4
Number of Valid votes counted	96
Number of Challenged ballots	0
Number of Valid votes counted plus challenged ballots	96
Challenges are not sufficient in number to affect the results of the election.	

On October 21, the Union filed timely objections to the election.³

¹ The unit description is as follows: “Included: All full-time and part-time security guards, as defined in Section 9(b) (3) of the National Labor Relations Act, as amended, assigned by the Employer at White Oak Federal Research Center, 10903 New Hampshire Ave., Silver Spring, MD, and 20400 Century Blvd., Germantown, MD. Excluded: All office clerical employees, professional employees, Project Managers, Assistant Project Managers, Captains, and all other supervisors as defined by the Act.” The eligibility period is the payroll period ending August 24, 2013.

² All dates are 2013 unless otherwise noted.

THE OBJECTIONS⁴

Objection 1

The Petitioner, acting through its agents, undermined the election by threatening the loss of benefits from the Employer.

Objection 2

The Petitioner, acting through its agents, also defaced election posters and acted in these and other manners that unfairly coerced the voters' decisions and the conditions necessary for a fair election.

ANALYSIS

The Union timely filed its objections on October 21, but it failed to supply any evidence whatsoever supporting those objections. The Union's evidence in support of its objections was due in the Regional Office by the close of business on November 4. The Union did not request an extension of time to provide its evidence. Section 102.69(a) of the Board's Rules and Regulations provides, in pertinent part, that a party filing objections to conduct affecting the results of an election must supply its evidence "within 7 days after the filing of objections, or such additional time as the Regional Director may allow..." The Board applies the deadline in the regulation strictly. *Star Video Entertainment*, 290 NLRB 1010 (1988).

A post-election hearing is granted only when the party filing objections has supplied *prima facie* evidence raising "substantial and material issues" that would warrant setting aside the election. *NLRB v. Tio Pepe, Inc.*, 629 F.2d 964, 968 (4th Cir. 1980). If the objecting party does not submit its supporting evidence within the time required by the regulation, the objections will be dismissed. *Kano Trucking Serv.*, 295 NLRB 514, 515 (1989). The objecting party

³ The petition was filed on August 6. I will consider on the merits only the alleged interference which occurred during the critical period which runs from the date of filing through the election. *Goodyear Tire and Rubber Co.*, 138 NLRB 453, 455 (1962).

⁴ The Union added the following, unnumbered, statement: "The events described above involve unlawful conduct to include violations of the LMRDA union election procedures."

cannot rely upon “the Board staff to seek out evidence that would warrant setting aside the election.” *NLRB v. U.S. Rubber Co.*, 373 F.2d 602, 606 (5th Cir. 1967). The objecting party, itself, must submit the prima facie evidence, and that evidence must be of the kind “which would be admissible into evidence at a hearing and subjected to evaluation as to its weight and probative force.” *Grants Furniture Plaza, Inc.*, 213 NLRB 410, 410 (1974). The burden placed on the objecting party for the submission of its supporting evidence is a heavy one, as the objecting party must provide specific supporting evidence. *NLRB v. Claxton Mfg., Co.*, 613 F.2d 1364, 1366 (5th Cir. 1980). Conclusory allegations and mere accusations are not sufficient. Because the Union here did not provide any evidence, such as affidavits from witnesses with personal knowledge, the names of potential witnesses, or documentary evidence, the objections themselves contain the only facts available to determine whether substantial and material issues exist which would warrant setting aside the election. Based on the objections alone, I do not find sufficient facts to require a hearing.

CONCLUSION

In light of the foregoing, I recommend that the Union’s objections, which contain nothing more than mere accusations, be overruled in their entirety and that the appropriate Certification issue.

Dated at Baltimore, Maryland, this 7th day of November 2013.

/s/ Steven L. Shuster

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Right to File Exceptions: Pursuant to the provisions of Section 102.69 of the National Labor Relations Board's Rules and Regulations, Series 8 as amended, you may file exceptions to this Report with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570-0001. Under the provisions of Section 102.69(g) of the Board's Rules, documentary evidence, including affidavits, which a party has timely submitted to the Regional Director in support of its objections or challenges and that are not included in the Report, is not part of the record before the Board unless appended to the exceptions or opposition thereto that the party files with the Board. Failure to append to the submission to the Board copies of evidence timely submitted to the Regional Director and not included in the Report shall preclude a party from relying on that evidence in any subsequent related unfair labor practice proceeding.

Procedures for Filing Exceptions: Pursuant to the Board's Rules and Regulations, Sections 102.111 – 102.114, concerning the Service and Filing of Papers, exceptions must be received by the Executive Secretary of the Board in Washington, D.C. by close of business on **November 21, 2013** at 5 p.m. (ET), unless filed electronically. **Consistent with the Agency's E-Government initiative, parties are encouraged to file exceptions electronically.** If exceptions are filed electronically, the exceptions 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 exceptions filed by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file.⁵ A copy of the exceptions must be served on each of the other parties to the proceeding, as well as to the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing exceptions electronically may be accomplished by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, select the E-Gov tab, and then click on the E-filing link on the pull down menu. Click on the "File Documents" button under Board/Office of the Executive Secretary and then follow the directions. 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.

⁵ 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.