

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 5**

CENTER FOR SOCIAL CHANGE, INC.

Employer

and

Case 05-RD-121078

JOSEPH SWIFT, AN INDIVIDUAL

Petitioner

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 500**

Union

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein called the Act, a hearing was held on February 7, 2014, before a hearing officer of the National Labor Relations Board, herein called the Board. The Employer, Center for Social Change, Inc. (“Employer”), the Union, Service Employee International Union, Local 500 (“Union”), and the Petitioner, Joseph Swift (“Petitioner”), appeared at the hearing. Petitioner seeks to decertify the Union from representing employees in the following unit of the Employer:

All full-time, regular part-time, and on-call/relief employees who provide direct care, direct care awake-overnight, and direct care-week-end, job coach, and maintenance associates employed by the Employer at its facilities in Maryland, excluding all office clerical employees, coordinators, managerial employees, professional employees, guards, and supervisors as defined in the National Labor Relations Act, as amended.

There are approximately 200 employees in the petitioned-for unit.

I. ISSUES

The Employer raised two issues in this proceeding: (1) whether house managers are supervisors under Section 2(11) of the Act and therefore should be excluded from the unit; and (2) whether the election should be conducted manually or by mail ballot.

II. POSITIONS OF THE PARTIES

The Employer contends that the house managers are not part of the unit because they are supervisors under Section 2(11) of the Act. It also contends that the election should be conducted in a traditional, on-site manual election and not be conducted by mail ballot. The Union contends that the house managers are not supervisors and are properly included within the unit. It also contends that the election should be conducted by mail ballot. Petitioner did not have a position on whether house managers are supervisors, but Petitioner contends that the election should be conducted by mail ballot. The parties all stipulated that the house managers provide direct patient care, and that the issue to address about the house managers is whether they are supervisors under the Act.

III. CONCLUSIONS

For the reasons that follow in this Decision, and after careful consideration of the entire record and the post-hearing briefs filed by the Employer and the Union, I find that the Employer has not met its burden of establishing that house managers are supervisors, as defined under Section 2(11) of the Act. Therefore, I find that house managers should be included in the petitioned-for unit and allowed to vote at the election. I also find that whether to conduct an election by mail is a discretionary, non-litigable matter that the Board has entrusted to the Regional Directors. As such, I will issue an election arrangements letter setting forth my

determination as to the mechanics of the election after due consideration of the parties' positions, the record, and any post-hearing briefs.

IV. FACTS AND ANALYSIS

A. Job Duties of the House Managers

The Employer runs thirty-seven group homes, an adult daycare facility, and a day and supported employment facility in the state of Maryland, the latter of which is operated out of the Employer's headquarters in Elkridge, Maryland. Each of these facilities provides patient care. Each group home houses approximately three to four residents. One house manager and approximately six staff member employees work at each group home. The staff members are in the bargaining unit. The house managers report to a program coordinator. The house manager position was created in or around November 2012. Prior to that, the staff members reported directly to their program coordinator. Since creating the house manager position, each program coordinator oversees about six homes. The program coordinators report to the assistant director of programs, and the assistant director of programs reports to the director of programs. The director of programs reports directly to the Employer's chief operating officer.

The house managers work Monday through Friday from 3:00 p.m. to 11:00 p.m. The approximately six staff members who work at each group home work varying shifts in order to cover the overnight, weekend, and daytime shifts. The record is unclear whether the staff members' shifts change regularly or whether they routinely work the same hours and days. There was also no testimony regarding whether a house manager can approve a staff member for overtime work. Each home must be staffed with staff members when residents are present in the group home. This is generally twenty-four hours a day unless the residents are gone for appointments or activities. The appointments and activities typically occur between 9:00 a.m.

and 3:00 p.m. Unlike staff members, a house manager is not required to be present at a group home twenty-four hours a day or on the weekends.

The house manager position includes various duties. For instance, the house manager is required to take inventory of the medications that the home's residents are taking. If the house manager determines any medication is running low, he must request more from the pharmacist, who then provides more of the medication. The house manager also suggests ideas for activities that the home's residents can engage in, such as shopping, seeing a movie, bowling, going for a community ride, and going on a vacation. The house manager does not make the final decision about whether a resident will partake in an activity. Final decisions are based on approval from professionals overseeing the resident. If the suggested activity is approved, the house manager then schedules staff members to cover that resident's weekly activities. The house manager is also in charge of scheduling staff members to cover medical and other appointments for the home's residents. The house manager determines which staff member will cover a resident's appointment based on each staff member's availability and rapport with the resident.¹ If assigned to cover an activity or appointment, the staff member is then in charge of taking the resident to and from the appointment or activity and attend the activity with the resident. Staff members are not regularly assigned to the care of any specific resident. House managers may request that a staff member who is working on a different shift come in early to cover an appointment. There was no evidence presented that the house managers can mandate this schedule change. Rather, it appears that they can ask a staff member if he will come in.

If a staff member needs to call out or request leave, he must bring his request to the house manager. The house manager then schedules other staff members to cover the shift. The house

¹ Although program coordinator Oliver Fonteh asserted that other factors besides availability and rapport are taken into account when scheduling staff members for coverage, he failed to say what any of the other factors were.

manager must submit the schedule change to the Employer's main office for approval. The staff members must bring their schedule change requests to the house manager even if it is a weekend and the house manager is not at the home. If the house manager cannot cover the schedule needs with his own house's staff, he must contact the program coordinator for assistance. There is no evidence in the record that house managers have authority to refuse a staff member's leave request.

House managers also have meetings twice a month at the Employer's headquarters. In these meetings, the house managers discuss problems that are happening in the homes and bring them to the Employer's attention to be addressed. Additionally, house managers must forward all information about the home to the program coordinator.

House managers can speak to their house's staff members about any issues they notice, such as the staff member not performing a procedure properly. A house manager may also complete a disciplinary form regarding a staff member if the manager determines the staff member is not carrying out his work properly or meeting the standards of the home. The form is titled "Recommendation for Disciplinary Action Report" and includes a space for the house manager to sign and date and a space for the program coordinator to sign and date. The form also includes boxes to check regarding what action is recommended. The form was created sometime in 2012. House managers recommend discipline to the program coordinator, and the program coordinator is the person who follows through with the discipline. The program coordinator may also directly initiate and enact discipline of the staff members. The assistant director of programs reviews all paperwork that comes from the program coordinators, including all disciplinary forms. Program coordinator Oliver Fonteh asserted that house managers have recommended discipline on at least one occasion, but he does not have any personal knowledge

of what occurred with that discipline. None of the house managers he oversees have recommended any formal discipline. The Employer submitted one completed "Recommendation For Disciplinary Action Report," and an attached Employee Warning Report. In that example, one house manager, Wanda Shird, recommended that a staff member be verbally warned for substandard work quality. The Employee Warning Report shows that program coordinator Aruna Fofana investigated the incident by asking the accused staff member about the incident and asking other staff members about what had occurred. The accused staff member received a verbal warning, which is the action that Shird had recommended.

The Employer generally uses a progressive discipline policy, which starts with a verbal warning. The next step is a written warning, then a suspension, and finally termination. In certain types of misconduct that involve abuse and neglect of residents, such as leaving a resident alone, the misconduct must be reported to the director of programs, and the Employer does not follow the progressive discipline policy. Rather, the Employer will immediately terminate the guilty employee. Cases involving employees who steal from the Employer or who commit fraud also do not follow the progressive discipline procedure. In these specific cases of heightened discipline, a house manager does not make recommendations about how to discipline the employee.

Since around November 2012, the Union and Employer have been engaged in bargaining toward a collective-bargaining agreement. As part of those negotiations, the parties have discussed a grievance procedure, but the record does not indicate that the parties have reached a tentative agreement on the proposed grievance procedure. Under the Employer's proposed procedure, prospective grievances should be taken informally as a first step to the appropriate group home manager in an effort to resolve the matter. The Union has not requested a change to

this proposed first step, but the parties have also not reached final agreement on this procedure or on an overall collective-bargaining agreement.

On the above-described evidence, the Employer asserts that the house managers are supervisors under Section 2(11) of the Act and should therefore not be included in the unit. The burden of proving supervisory status rests on the party asserting that status. *NLRB v. Kentucky River Community Care*, 532 U.S. 706, 711-12 (2001); *Oakwood Healthcare, Inc.*, 348 NLRB 686 (2006); *Benchmark Mechanical Contractors, Inc.*, 327 NLRB 829 (1999). Thus, the Employer bears the burden of proving that the house managers are supervisors in this matter. Any lack of evidence is construed against the party asserting supervisory status. *Elmhurst Extended Care Facilities*, 329 NLRB 535, fn. 8 (1999). Conclusory statements without supporting evidence do not establish supervisory authority. *Volair Contractors, Inc.*, 341 NLRB 673 (2004). I find that the Employer has not met its burden of proving that the house managers are supervisors under the Act.

In order to be a supervisor under the Act, the “individual must have the authority to effectuate or effectively recommend at least one of the supervisory indicia enumerated in Section 2(11) of the Act, using independent judgment in the interest of the employer.” *Pacific Coast M.S. Industries Co., Ltd.*, 355 NLRB 1422, at 2 (2010); *Oakwood Healthcare, Inc.*, 348 NLRB 686, 687 (2006)(citing *NLRB v. Kentucky River Community Care*, 532 U.S. 706 (2001)). In asserting that the house managers are supervisors, the Employer relies primarily on the house managers’ asserted authority to assign work, to responsibly direct staff member’ work, to discipline and effectively recommend discipline for staff members, and to adjust staff members’ grievances.

1. Assignment of Work

The Board in *Oakwood Healthcare, Inc.* further described the supervisory indicia of “assigning work.” “Assigning” refers to the supervisor’s “designation of significant overall duties to an employee, not to the [supervisor’s] ad hoc instruction that the employee perform a discrete task.” *Oakwood Healthcare, Inc.*, 348 NLRB at 689. For example, if a charge nurse assigns an LPN to be the person who regularly administers medication to a patient, that is an assignment under the Act. *Id.* Whereas, it is not a supervisory assignment when a charge nurse assigns an LPN to give a medication in one discrete instance. *Id.*

In the instant case, the record evidence shows that house managers are assigning staff members to cover resident activities and appointments on an ad hoc basis. The house managers do not assign a resident’s overall care to any specific staff member or members. Rather, it appears staff members are assigned to cover a resident’s needs largely on the basis of the staff members’ availability. Although the house managers also take into account the staff members’ rapport with the residents, this is akin to a leadman taking into account a specific employee’s skills when assigning tasks. This does not amount to the independent judgment necessary to be considered a supervisor. *Brown & Root, Inc.*, 314 NLRB 19, 21 (1994). Additionally, the record evidence indicates that the house managers do not have authority, absent approval from the Employer’s headquarters, to determine the activities that the residents, and therefore the staff members, will engage in.

Further, the suggested schedules that are created by the house managers must be submitted to the Employer’s headquarters for approval. This again indicates that house managers do not have the independent ability to assign work to the staff members in the way that

“assign” is defined under Section 2(11). The record is also devoid of evidence that a house manager can require a staff member to work hours outside his scheduled shift or that a house manager can deny a staff member’s request for leave. Rather, the testimony shows that if the house manager cannot find a volunteer amongst his staff members to fill a needed slot, the house manager must contact his program coordinator to find coverage. Without the ability to mandate that a staff member come in to work or to refuse a member’s leave request, the house managers do not hold supervisory authority in their scheduling of staff members. *Golden Crest Healthcare Center*, 348 NLRB 727, 729 (2006); *Heritage Hall, E.P.I. Corp.*, 333 NLRB 458, 459 (2001). As a result, I find that the Employer has not demonstrated that its house managers are “assigning work” as a supervisory function.

2. Responsibly Direct Work

The Board also addressed what it means to responsibly direct work in *Oakwood Healthcare, Inc.*, 348 NLRB at 691-92.

[F]or direction to be ‘responsible,’ the person directing and performing the oversight of the employee must be accountable for the performance of the task by the other, such that some adverse consequence may befall the one providing the oversight if the tasks performed by the employee are not performed properly. *Id.*

In *Oakwood Healthcare, Inc.*, the Board found that the charge nurses were not responsibly directing work because they did not receive discipline or lower evaluations for their staff members’ failures and did not have to take corrective actions for their staff members’ failures. *Id.* at p. 695. Similarly in this matter, there is no evidence that the house managers are held accountable through evaluations or discipline for their staff members’ failures. In fact, there is no evidence in the record that house managers have experienced any material consequences, good or bad, as a result of their performance in directing staff members. *See Golden Crest Healthcare Center*, 348 NLRB at 731. Additionally, there is no evidence that the Employer ever

informed the house managers that they would be held accountable for their staff members' performance. *Id.* Thus, I find that the Employer has not shown that its house managers are responsibly directing the staff members' work.

3. Discipline and Effectively Recommend Discipline

The Employer asserts that the house managers have the power to discipline and to effectively recommend discipline for their staff members and that this makes the house managers supervisors under the Act. While the record does not establish that the house members directly engage in giving discipline, it does establish that house managers can recommend discipline. The house managers can recommend to their program coordinator that discipline be taken against a staff member by filling out and submitting a form to the program coordinator. In order to meet the supervisory indicia under the Act, the house managers' disciplinary recommendations must be "effective." *See* Section 2(11) of the Act. The evidence does not support a finding that the house managers' recommendations are effective.

The Employer provided evidence of one house manager's disciplinary recommendation and of the subsequent disciplinary action taken against that staff member. In that instance, the program coordinator investigated the incident before disciplining that staff member.² The Board has held that having authority to effectively recommend a disciplinary action "generally means that the recommended action is taken without independent investigation by superiors, not simply that the recommendation is ultimately followed." *Children's Farm Home*, 324 NLRB 61, 61 (1997); *Hawaiian Telephone Co.*, 186 NLRB 1, 2 (1970). In this case, the fact that the Employer investigated after the house manager's recommendation of disciplinary action indicates that a

² The program coordinator, house manager, and staff members involved in the incident did not testify. Program coordinator Oliver Fonteh had never received a recommendation for discipline from the house managers he oversees, and he had no personal knowledge of discipline that occurred under another program coordinator's review. Therefore, I am relying upon the disciplinary paperwork provided by the Employer.

house manager's recommendations are mere suggestions and do not amount to effective recommendations. *Brown & Root, Inc.*, 314 NLRB at 21; *Necedah Screw Machine Products, Inc.*, 323 NLRB 574, 577 (1997); *DirectTV U.S. DirectTV Holdings LLC*, 357 NLRB No. 149, at 3 (2011). Therefore, I find that the Employer has not proven that its house managers have the authority to discipline or effectively recommend discipline of their staff members.

4. Authority to Adjust Grievances of Staff Members

Under Section 2(11), an employee may be a supervisor if he is able to adjust employee grievances. The Employer relies on its collective-bargaining proposal to the Union for a grievance procedure to prove that house managers can adjust grievances. The Employer and the Union have not reached agreement on this proposal, and they do not have a final collective-bargaining agreement as yet. Rather, the Employer and the Union are continuing to bargain. I do not find the Grievance Procedure proposal, in the absence of even a tentative agreement, to be dispositive.

Further, even if the proposal had been agreed upon, the proposal alone does not provide sufficient evidence that house managers can adjust grievances. The grievance procedure proposal specifically removes the house managers from involvement with any grievances over discipline or discharge. The proposal also says that "complaints and prospective grievances" about issues other than disciplines or discharges should be taken to the house manager "informally" for potential resolution. Since they are "prospective" grievances only, this language does not sufficiently indicate that house managers can adjust employee grievances. Additionally, the proposed step involving the house managers is prior to any proposed formal grievance processing. As such, even if the proposal had been agreed upon by the Union and Employer, further evidence would be necessary to show the house managers do in fact have the

power to adjust grievances. No such evidence was presented. Consequently, I find that the Employer has not provided sufficient evidence that the house managers can adjust employee grievances.

As a result, I find that the house manager position does not meet any of the supervisory criteria under Section 2(11) of the Act. Since the Employer has failed to meet its burden of proof that the house managers are supervisors under the Act, I find that the house managers are members of the petitioned-for unit. They will be allowed to vote in the upcoming election.

B. Conducting the Election by Manual Ballot or by Mail Ballot

The Employer stated that the election should be conducted in a traditional, on-site manual election. The Union and the Petitioner stated that the election should be conducted by mail ballot. The Employer previously raised this same issue in the pre-election hearing of Center for Social Change, Inc., Case 05-RC-065270. That case involved the same unit that is at issue in this matter. I have compared the facts presented in testimony at the hearing for Case 05-RC-065270 with those presented in this matter.³ I find that the Employer has not presented evidence of any substantially different circumstances from those presented in Case 05-RC-065270 regarding its staffs' hours of work and the location of the Employer's facilities and its staff.

Whether to conduct an election by mail is a discretionary, non-litigable matter that the Board has entrusted to the Regional Directors. The Board has consistently held that a Regional Director has broad discretion in arranging all the details of an election, including whether to conduct an election by mail. *San Diego Gas and Elec.*, 325 NLRB 1143 (1998); *National Van Lines*, 120 NLRB 1343, 1346 (1958); *Southwestern Michigan Broadcasting Co.*, 94 NLRB 30, 31 (1951); *North American Aviation, Inc.*, 81 NLRB 1046 (1949); *see also Halliburton Services*,

³ I am hereby taking administrative notice of the hearing transcript and exhibits presented in Center for Social Change, Inc., Case 05-RC-065270.

65 NLRB 1154 (1982); *Manchester Knitted Fashions, Inc.*, 108 NLRB 1366 (1954); NLRB Casehandling Manual Section 11301.2. In the instant case, the hearing officer permitted the parties to put on evidence regarding this issue solely to assist me in making this determination.

An election arrangements letter setting forth my determination as to the mechanics of the election will issue hereafter, after due consideration of the parties' positions, the record, and any post-hearing briefs.

V. CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. The Employer is an employer as defined in Section 2(2) of the Act and is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.⁴

3. The Union is a labor organization within the meaning of Section 2(5) of the Act.⁵ The Union was certified to represent the above-stated unit in November 2012. The parties have been negotiating for a collective-bargaining agreement since that time.⁶

⁴ The parties stipulated that the Employer is a Maryland not-for-profit corporation with its principal headquarters in Elkridge, Maryland, and places of business located in Baltimore and Howard Counties, Maryland, which is engaged in providing inpatient residential services for adult individuals and children, adult daycare services, and supported employment programs for individuals with developmental disabilities and related disorders. The parties also stipulated that within the past twelve months, a representative period, the Employer, in the course of conducting its business operations, derived gross revenues in excess of \$250,000 and purchased and received at its Maryland facilities products, goods, and materials valued in excess of \$5,000 directly from points outside the state of Maryland.

⁵ The parties stipulated that the Union is a labor organization within the meaning of the Act.

⁶ The parties stipulated that the Union and Employer have been working toward a collective-bargaining agreement since around November 2012, when the appeal of the election held in 2011 was withdrawn. The parties also stipulated that they have not yet reached agreement on any collective-bargaining agreement.

5. 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.

6. The following employees of the Employer constitute a unit appropriate for the purpose of collective-bargaining within the meaning of Section 9(a) of the Act:

All full-time, regular part-time, and on-call/relief employees who provide direct care, direct care awake-overnight, and direct care-week-end, job coach, and maintenance associates employed by the Employer at its facilities in Maryland, excluding all office clerical employees, coordinators, managerial employees, professional employees, guards, and supervisors as defined in the National Labor Relations Act, as amended.

7. The house managers are not supervisors under Section 2(11) of the Act and are therefore included within the petitioned-for unit. The house managers will be allowed to vote in the election.

I. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective-bargaining by Service Employees International Union, Local 500. The date, time, and manner 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 strikes, 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.

Also eligible to vote are all employees in the unit if they were employed by the Employer for 30 working days or more within the 12 months preceding the eligibility date for the election, or if they have had some employment by the Employer in those 12 months and have been employed for 45 working days or more within the 24-month period immediately preceding the eligibility date. Of those eligible under this formula, any employees who quit voluntarily or had been terminated for cause prior to the completion of the last job for which they were employed are excluded and disqualified as eligible voters.

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 seven days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This 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.). Upon receipt of the list, I will make it available to all parties to the election. To be timely filed, the list must be received in the Regional Office, National Labor Relations Board, Region 5, Bank of America Center -Tower II, 100 South Charles Street, Suite 600, Baltimore, Maryland 21201, on or before **February 25, 2014**. 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 by facsimile transmission at (410) 962-2198. Since the list will be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, 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 a minimum of 3 working days prior to the date 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 non-posting of the election notice.

RIGHT TO REQUEST REVIEW

Right to Request Review: Pursuant to the provisions of Section 102.67 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, you may obtain review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, DC 20570-0001. This request for review must contain a complete statement setting forth the facts and reasons on which it is based.

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 **March 4, 2014**, at 5 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.

February 18, 2014

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, select **File Case 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.

Issued at Baltimore, Maryland this 18th day of February, 2014.

(SEAL)

/s/ Steven L. Shuster

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