

NOT INCLUDED IN
BOUND VOLUMES

MJS
Lawrence, MA

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

C.L.A.S.S., INC.

and

Case 01-RC-103308

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 509

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered objections to an election held May 29, 2013, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 48 for and 46 against the Petitioner, with 1 challenged ballot, an insufficient number to affect the results.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the hearing officer's findings and recommendations,¹ and finds that a certification of representative should be issued.

¹ The Employer filed six objections, but withdrew Objections 4 and 5 prior to the hearing and withdrew portions of Objection 3 during the hearing. The Employer has excepted to the hearing officer's recommendations to overrule Objections 1, 2, and 6. In the absence of exceptions, we adopt pro forma the hearing officer's recommendation to overrule the remaining portions of Objection 3.

With respect to Objection 1, we find the Employer failed to meet its burden of proving that the conduct of union organizers proximate to the voting area involved electioneering or created an impression of surveillance warranting setting aside the election. As to electioneering, the organizers were not shown to have engaged in sustained conversation with any employees waiting in line to vote. As to impression of surveillance, there is no evidence that the organizers positioned themselves so that

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for Service Employees International Union, Local 509 and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time non-professional, direct-care employees including but not limited to: case coordinators, case managers, career specialists, care managers, day habilitation specialists, developmental specialists, drivers, employment specialists, IDS specialists, job coaches, SES employment specialists and monitors employed by the Employer in North Andover, North Reading, and Lawrence, Massachusetts but excluding professional employees (including but not limited to: behavioral specialists, clinicians, nurses, occupational therapists, and occupational therapy assistants), non-direct care employees (including but not limited to: administrative, dispatchers, payroll, maintenance, and receptionists), clerical employees, confidential employees, managers, guards, and supervisors as defined in the Act.

Dated, Washington, D.C., February 26, 2014

Philip A. Miscimarra, Member

Harry I. Johnson, III, Member

Nancy Schiffer, Member

employees would have to pass them in order to vote. Contrast with *Pepsi-Cola Bottling Co.*, 291 NLRB 578 (1988) (finding objectionable conduct where employees going to vote were forced to walk past a “gauntlet” of boisterous union supporters in a no-electioneering area). Further, there is no evidence that voters waiting in line to vote saw or overheard one of the organizers asking employee Plaza how she had voted as she was leaving the polling location, even assuming such evidence might warrant an inference that this incident alone would lead employees to believe that upon exiting the polls they would immediately be confronted by organizers asking how each person voted.

(SEAL)

NATIONAL LABOR RELATIONS BOARD