

BENNET D. ZUROFSKY

Attorney at Law

17 Academy Street - Suite 1201

Newark, New Jersey 07102

www.zurofskylaw.com

973-642-0885

Fax: 973-642-0946

bzurofsky@zurofskylaw.com

April 1, 2014

Via Electronic Filing

National Labor Relations Board
c/o Gary Shinnars, Executive Secretary
Washington, DC 20570

Re: Haddad Plumbing and Heating, Inc.
Case No. 22-RC-123052

Dear Honorable Members of the Board:

Please accept this letter in lieu of a more formal brief in response to Haddad Plumbing and Heating's Request to Review the March 13, 2014, decision of Regional Director J. Michael Lightner denying its request to dismiss Sheet Metal Workers Local 25's Representation Petition.

Haddad Plumbing requested dismissal of the Petition on March 11, 2014. It claimed that Local 25's showing of interest was tainted by alleged threats, misrepresentations, and other coercion of employees.

However, on March 12, 2014, Haddad Plumbing entered into a Stipulated Election Agreement for an April 11, 2014 election. The same attorney, Paul I. Wiener, signed both the request for dismissal of the petition and the Stipulated Election Agreement on behalf of Haddad Plumbing.

On the following day, March 13, 2014 Regional Director Lightner rendered the decision denying the request to dismiss the Petition that Haddad Plumbing now asks you to review. By seeking such review, the company is basically trying to withdraw its fully-informed consent to the March 12, 2014 Stipulated Election Agreement.

National Labor Relations Board
Re: Haddad Plumbing and Heating, Inc.
Case No. 22-RC-123052
April 1, 2014
Page 2

On March 14, 2014, Acting Regional Director Julie Kaufman approved the Stipulated Election Agreement.

Local 25 is baffled as to how Haddad Plumbing can possibly believe it is entitled to withdraw its consent to proceeding with an election based upon information that was fully known not only to it but to the very attorney who signed the election stipulation, prior to its agreement to proceed with the election.

Haddad Plumbing's March 11, 2014, request for dismissal of the Petition was supported by a single employee affidavit signed by John Holly on that same date. That same affidavit remains the sole competent evidence supporting the company's request for your review. The proper time for considering that evidence would obviously have been the Representation Hearing on March 12, 2014. However, there was no hearing because instead of challenging Local 25's showing of interest, Haddad Plumbing signed the Stipulated Election Agreement.

If anything amounts to a knowing waiver of any right Haddad Plumbing may have had to contest Local 25's showing of interest based upon the information contained in Mr. Holly's affidavit, it is their attorney's signature of the Stipulated Election Agreement. Haddad Plumbing's request for review contains no explanation whatsoever for why their consent to the election stipulation should be set aside.

Thus, Haddad Plumbing's Request for Review should be denied on the basis the Stipulated Election Agreement alone.

This is especially true because Haddad Plumbing has presented no new competent evidence in support of the claims in its Request for Review. The Request for Review did include an Affidavit from its President and CEO, Shallan Haddad, which was not before Mr. Lightner when he rendered his decision. That affidavit, however, contains nothing but inadmissible double and triple hearsay as to what Mr. Haddad contends four of his employees told him.

Moreover, two of those employees spoke to Mr. Haddad on March 10, 2014, *i.e.*, the day before the company filed its initial request to dismiss the Petition and two days before it entered into the Stipulated Election Agreement, so their so-

National Labor Relations Board
Re: Haddad Plumbing and Heating, Inc.
Case No. 22-RC-123052
April 1, 2014
Page 3

called evidence was known to the company well before that Agreement was signed.

Mr. Haddad provides double hearsay from those two employees and one other about what an unidentified Union representative allegedly said to them. Plainly, double hearsay as to what an anonymous Union representative said is completely inadmissible and cannot be considered by you.

Mr. Haddad's affidavit also contains triple hearsay as to an identified Union representative who purportedly asked an employee's father, a member of Local 25, to try to convince his son to vote for the Union. This is completely inadmissible as triple hearsay. Moreover, Local 25 is at a complete loss to understand what could possibly be objectionable about the conversation described even if it were properly proven to have occurred.

Indeed, as Regional Director Lightner concluded in his March 13, 2014, decision of the request for dismissal, there was nothing improper about any of the hearsay that is attributed to Local 25. As Director Lightner wrote:

Regarding the allegation of coercion during the Petitioner's procurement of its showing, the evidence which you presented together with that adduced by the investigation, is insufficient to support your contention that this Petition and its showing were tainted by the conduct of the persons involved in its procurement. In this regard, I note that the evidence of coercion consisted of alleged statements informing employees that execution of a Union membership card could result in improved job security, pay increases and improved benefits. You did not present, nor did the investigation otherwise reveal evidence that any person acting on the Union's behalf made any coercive threats to employees regarding union representation. In these circumstances, the Board has held that "(e)mployees are generally able to understands that a Union cannot obtain benefits automatically, but must seek to

National Labor Relations Board
Re: Haddad Plumbing and Heating, Inc.
Case No. 22-RC-123052
April 1, 2014
Page 4

achieve them through collective bargaining.”
Acme Wire Products Corp., 224 NLRB 701
(1976). Further, the Board has held that a
statement by a union representative to
employees that by signing a card and joining
a union, the employees could not be fired, is
no more than [sic] a correct statement of law
and not a representation that would
invalidate a membership card. See e.g.,
Garland Knitting Mills, 170 NLRB 821, 827
(1968).

For all of the foregoing reasons, Haddad Plumbing’s Request
for Review of Regional Director Lightner’s March 13, 2014
decision should be denied and the election scheduled for April
11, 2014, should proceed in accordance with the Stipulated
Election Agreement.

Respectfully submitted,

/s/ Bennet D. Zurofsky
BENNET D. ZUROFSKY

cc: J. Michael Lightner, Regional Director
Ty Hyderally, Esq.
James Harper, Organizer