

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

WOODLAWN ENTERPRISE, LLC
D/B/A BESTWAY MT. VERNON SUPERMARKET
Employer

and

Case 05-RC-124585

UNITED FOOD AND COMMERCIAL WORKERS
INTERNATIONAL UNION, LOCAL 400
Petitioner

**REPORT ON OBJECTIONS AND
NOTICE OF HEARING**

Pursuant to a Stipulated Election Agreement approved on March 27, 2014, a secret-ballot election was conducted on April 24, 2014.¹ This election resulted in nine (9) challenged ballots which were determinative of the outcome of the election. On May 1, 2014, the parties agreed to resolve three (3) of the determinative challenged ballots, resulting in a revised tally of ballots with the following results:

	Original Tally	Challenged Ballots Counted	Final Tally
Approximate number of eligible voters	41		
Void ballots	0	0	0
Votes cast for Petitioner	16	3	19
Votes cast against participating labor organizations	10	0	10
Valid votes counted	26		29
Challenged ballots	9		6
Number of valid votes counted plus challenged ballots	35		35

¹ The unit is: "All full-time and regular part-time employees employed by the Employer at its Mount Vernon, Virginia facility, but excluding all store managers, assistant store managers, fish managers, produce managers, meat managers, human resources personnel, office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act."

On May 1, 2014, Woodlawn Enterprise, LLC d/b/a Bestway Mt. Vernon Supermarket, the Employer, filed timely objections to conduct it alleges affected the results of the election.²
(Copy attached as Exhibit A)

THE OBJECTIONS

Objection 1:

During the critical period, the Union, through its officers, agents, authorized representatives and others, acting on its behalf and/or with its apparent authority, actual or implied endorsement or ratification, threatened, intimidated, harassed and coerced voting unit employees. Such conduct had a coercive impact on eligible voters, destroyed the laboratory conditions required in Board elections and improperly affected the results of the election.

In support of Objection 1, the Employer submitted a summary of evidence. The Employer alleges on or about April 17, 2014, a union meeting was held at a restaurant located in Alexandria, Virginia. In attendance were approximately 15 of the approximately 41 eligible voters, and 5 representatives of the Petitioner. The Employer further alleges that at this meeting, representatives of the Petitioner told employees, including Employee A, the Petitioner had attorneys on retainer who handled immigration matters.

The Petitioner denies it engaged in any objectionable conduct or that the conduct alleged is objectionable.

As it appears substantial and material issues have been raised which can best be resolved by record testimony, I hereby direct that a hearing be held with respect to the issues raised by Objection 1.

² The petition was filed on March 14, 2014. The undersigned will consider on its merits only that alleged interference that occurred during the critical period, which begins on and includes the date of filing of the petition and extends through the election. *Goodyear Tire and Rubber Co.*, 138 NLRB 453 (1962).

Objection 2:

During the critical period, the Union, through its officers, agents, authorized representatives and others, acting on its behalf and/or with its apparent authority, actual or implied endorsement or ratification, threatened, intimidated, harassed and coerced employees by promising employees tangible, substantial and direct benefits, in exchange for those employees voting in favor of Petitioner in the election. Such conduct had a coercive impact on eligible voters, destroyed the laboratory conditions required in Board elections and improperly affected the results of the election.

In support of Objection 2, the Employer alleges that during the same meeting described above under Objection 1, Petitioner representatives promised employees attending the meeting, including Employee A, to get them a green card, working papers, or otherwise assist them in obtaining valid resident status if the employees present at the meeting voted for the Petitioner in the election on April 24, 2014. The Employer alleges the promises made by the Petitioner constitute a “tangible, substantial, and direct” benefit in exchange for supporting the Petitioner in the election. *House of Raeford Farms, Inc.*, 317 NLRB 26 (1995).

The Petitioner denies it engaged in any objectionable conduct or that the conduct alleged is objectionable.

As it appears substantial and material issues have been raised which can best be resolved by record testimony, I hereby direct that a hearing be held with respect to the issues raised by Objection 2.

NOTICE OF HEARING

IT IS HEREBY DIRECTED, pursuant to Section 102.69 of the National Labor Relations Board’s Rules and Regulations, Series 8, as amended, that a hearing be held at the **Bank of America Center, Tower II, 100 South Charles Street, Baltimore, Maryland**, on **June 17,**

2014, beginning at 10:00 a.m., and continuing on consecutive days thereafter until completed, before a Hearing Officer of the National Labor Relations Board, who will take testimony for the purpose of resolving the issues raised by the Petitioner's Objections herein, at which the parties have the right to appear in person, or otherwise, and give testimony. The Hearing Officer designated for the purpose of conducting such hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of said issues. Within 14 days from the issuance of such report, any party may file with the Board in Washington, DC, an original and seven copies of exceptions thereto. Immediately upon filing such exceptions, the party filing the same shall serve a copy thereof on the other parties and shall file a copy with the undersigned. If no exceptions are filed thereto, the Board may decide the matter forthwith upon the record or make other dispositions of the case.

Dated at Baltimore, Maryland, this 4th day of June 2014.

/s/ Charles Posner

Charles Posner, Regional Director
National Labor Relations Board, Region 5
Bank of America Center – Tower II
100 South Charles Street, Suite 600
Baltimore, MD 21201

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WOODLAWN ENTERPRISE, LLC d/b/a
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WORKERS UNION, LOCAL 400,

Petitioner.

Case No. 05-RC-124585

**EMPLOYER'S OBJECTIONS TO CONDUCT
AFFECTING THE RESULTS OF THE ELECTION**

ATTORNEYS FOR WOODLAWN ENTERPRISE,
LLC d/b/a BESTWAY MT. VERNON
SUPERMARKET

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Exhibit A

OBJECTIONS TO CONDUCT AFFECTING THE RESULTS OF THE ELECTION

Pursuant to Section 102.69 of the National Labor Relations Board's Rules and Regulations, Woodlawn Enterprise, LLC d/b/a Bestway Mt. Vernon Supermarket ("Bestway" or "the Company"), by and through its undersigned counsel, hereby objects to conduct affecting the results of the Election held on April 24, 2014, pursuant to the representation petition filed by the United Food and Commercial Workers Union, Local 400 ("Petitioner" or "the Union"), in the above-referenced case, for the following reasons:

1. During the critical period, the Union, through its officers, agents, authorized representatives and others acting on its behalf and/or with its apparent authority, actual or implied endorsement or ratification, threatened, intimidated, harassed and coerced voting unit employees. Such conduct had a coercive impact on eligible voters, destroyed the laboratory conditions required in Board elections and improperly affected the results of the election.

2. During the critical period, the Union, through its officers, agents, authorized representatives and others acting on its behalf and/or with its apparent authority, actual or implied endorsement or ratification, threatened, intimidated, harassed and coerced employees by promising employees tangible, substantial and direct benefits, in exchange for those employees voting in favor of Petitioner in the election. Such conduct had a coercive impact on eligible voters, destroyed the laboratory conditions required in Board elections and improperly affected the results of the election.

By the conduct described above and other conduct, the Petitioner through its officers, agents, authorized representatives and others acting on its behalf and/or with its apparent authority, actual or implied endorsement or ratification, has interfered with the conduct of the election, destroyed the laboratory conditions required in Board elections and engaged in conduct

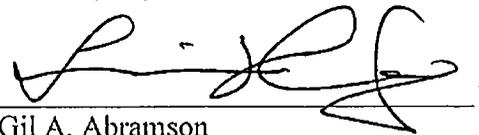
affecting the results of the election. The above and other conduct taking place during the critical period were sufficient to unlawfully affect the results of the election.

Accordingly, for the foregoing reasons and any other reason required by law, Bestway respectfully requests that the Acting Regional Director review and investigate misconduct of Petitioner, its officers, agents, authorized representatives and others acting on its behalf and/or with its apparent authority, actual or implied endorsement or ratification, and set aside the results of the election, or, in the alternative, issue an order directing that a hearing be held to address the Company's objections to the election.

Respectfully submitted this 1st day of May, 2014.

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By:



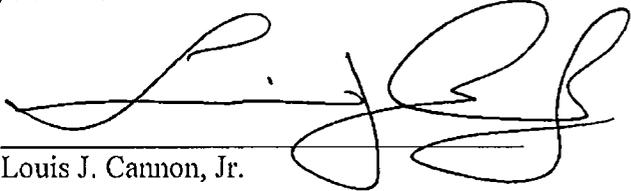
Gil A. Abramson
Louis J. Cannon, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2014, I caused the foregoing *EMPLOYER'S OBJECTIONS TO CONDUCT AFFECTING THE RESULTS OF THE ELECTION* to be filed with the Acting Regional Director, National Labor Relations Board, Fifth Region, using the Board's electronic filing system.

I further certify that I caused a copy to be served via facsimile upon the following:

Mr. Steven L. Schuster, Acting Regional Director
National Labor Relations Board, Region 5
Bank of America Center, Tower II
100 S. Charles Street, 6th Floor
Baltimore, MD 21201
Phone: (410) 962-2822
Fax: (410) 962-2198



Louis J. Cannon, Jr.