

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 24**

YAUCO HEALTH CARE CORPORATION D/B/A
HOSPITAL METROPOLITANO DR. TITO MATTEI

Employer

and

SAMMY VEGA, AN INDIVIDUAL

Petitioner

and

JANISE PEREZ-SANTOS, AN INDIVIDUAL

Petitioner

and

TOMAS GONZALEZ-CARABALLO,
AN INDIVIDUAL

Petitioner

UNIDAD LABORAL DE ENFERMERAS(OS) Y
EMPLEADOS DE LA SALUD

Union

Cases: 24-RD-496
24-RD-497
24-RD-498

**HEARING OFFICER'S REPORT AND
RECOMMENDATIONS ON OBJECTIONS**

Pursuant to Decision and Direction of Election issued by the Acting Regional Director on November 17th, 2006, an election by secret ballot was conducted on December 14, 2006 among certain employees of the Employer¹, to

¹The bargaining unit in Case **24-RD-496** included all full-time and regular part-time skilled and unskilled service and maintenance employees including those employees employed by the Employer in its maintenance, housekeeping, purchasing, warehouse and diet departments and all other nonprofessional employees employed by the Employer at its facility in Yauco, Puerto Rico, but excluding all technical employees, business office clerical employees, professional

determine whether or not they wanted to be represented for the purpose of collective bargaining by Unidad Laboral de Enfermeras(os) y Empleados de la Salud, herein called the Union.

The Tally of Ballots in Case 24-RD-496, made available to the parties, revealed the following:

Approximate number of eligible voters	24
Void ballots	0
Votes cast for Petitioner	0
Votes cast against participating labor organization	22
Valid votes counted	22
Challenged ballots	0
Valid votes counted plus challenged ballots	22

Challenges were not sufficient in number to affect the results of the election.

The Tally of Ballots in Case 24-RD-497, made available to the parties, revealed the following:

Approximate number of eligible voters	93
Void ballots	0

employees, guards and supervisors as defined by the Act. **Case 24-RD-497** included all full-time and regular part-time licensed practical nurses, radiology technicians, respiratory therapy technicians, operating room technicians, operating room assistant, pharmacy assistants, physical therapy technicians, medical records technicians, and laboratory assistants employed by the Employer at its facility in Yauco, Puerto Rico, but excluding all other employees, per diem employees, medical technologists, graduate nurses, guards and supervisors as defined by the Act. In Case **24-RD-498** the bargaining unit was all full-time and regular part-time graduate nurses employed by the Employer at its facility in Yauco, Puerto Rico, but excluding all other employees, per diem graduate nurses, general supervisors, nursing directors, department supervisors, permanent head nurses, permanent team leaders, guards and supervisors as defined by the Act.

Votes cast for Petitioner	25
Votes cast against participating labor organization	64
Valid votes counted	89
Challenged ballots	0
Valid votes counted plus challenged ballots	89

Challenges were not sufficient in number to affect the results of the election.

The Tally of Ballots in Case 24-RD-498, made available to the parties, revealed the following:

Approximate number of eligible voters	109
Void ballots	2
Votes cast for Petitioner	27
Votes cast against participating labor organization	70
Valid votes counted	97
Challenged ballots	1
Valid votes counted plus challenged ballots	98

Challenges were not sufficient in number to affect the results of the election.

On December 21, 2006, the Union filed timely objections to the election.

Pursuant to the Decision and Direction of Election, and in conformity with Section 102.69 of the Board's Rules and Regulations, the Regional Director caused an investigation to be made of the objections, at the completion of which, she concluded that substantial and material issues had been raised by the

Union's Objections number 1, 5, 6, 7, and 9, and ordered that a hearing be conducted to resolve the issues raised by such objections.

Pursuant to the Supplemental Decision on Objections and Notice of Hearing issued by the Regional Director, a hearing was conducted before me on February 8, 2007 at Yauco, Puerto Rico.

All parties were notified of the hearing and were afforded an opportunity to be heard, to present witnesses, to cross-examine witnesses, and to introduce evidence bearing on the issues involved².

Upon the entire record of the case, the undersigned makes the following findings, conclusions and recommendations with respect to the issues presented in this hearing.

THE OBJECTIONS

In its Objection No. 1, the Union alleges that on the day of the election the Employer closely monitored the movements of the union's election observer by assigning an armed security guard to watch her on the Hospital giving the impression that she was a dangerous and/or hostile employee. Objection No. 5 alleges generally that the Employer denied the Union access to its bulletin board, contrary to the provisions of the collective bargaining agreement. Further, on Objection No. 6 the Union alleges that on the day of the election the Employer

² On February 2, 2007 Petitioner's Legal Counsel filed a Motion requesting that the Hearing scheduled for February 8, 2007, be held during the afternoon hours due to previous engagements. On that same date the Union's Legal Counsel filed a Request for Change of Date of Hearing and Request for Change of Venue, requesting that the hearing be held at Yauco, Puerto Rico on February 27 or 28, or March 1, 2007 because he was unavailable on February 8, 2007 with previous legal engagements or traveling away from Puerto Rico. On February 5, 2007 the Regional Director issued an Order granting the Union's Motion to change the venue to Yauco Puerto Rico and the Petitioner's Motion to postpone the Hearing for the afternoon hours. The Union's request for postponement was denied.

removed union officers from the Employer's cafeteria in front of eligible voters. The Union alleges in Objection No. 7 that the Employer interrogated its employees about their union activities, other matters of concern and their grievances. In addition, the Union alleges in Objection No. 9 that the Employer held captive audience meetings with employees during the 24-hour period preceding the election.

The issue here is whether the alleged objectionable conduct, if proven, interfered with the free choice of employees to such a degree that it materially affected the results of the election. The Union, nevertheless having been duly notified, did not attend the hearing, thus failing to come forward with any evidence to support its objections. The burden is on the objecting party to provide evidence that the election should be set aside. Park-Chevrolet-Geo, 308 NLRB 1010 (1992); Section 102.69 of the Board's Rules and Regulations.

RECOMMENDATION

The Union having presented no evidence to support its objections to the election and/or to conduct affecting the results of the election, it is hereby recommended that the Objections be overruled.

In accordance with the Regional Director's Supplemental Decision on Objections and Notice of Hearing, within fourteen (14) days from the issuance of this report, any party may file with the Board in Washington, D.C., an original and seven copies of exceptions hereto in accordance with the provisions of Section 102.69 and 102.67 of the Board's Rules and Regulations. Immediately upon filling of such exceptions, the party filling the same shall serve a copy thereof

upon the other parties and the Regional Director for Region 24, as well as a statement of service with the Board. If no exceptions are filed hereto, the Board may decide the matter forthwith upon the record or make other disposition of the case.

Dated at San Juan, Puerto Rico, this 28th day of February 2007.

Maria Margarita Fernández
Hearing Officer
National Labor Relations Board
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CERTIFICATE OF SERVICE

I hereby certify that the **“HEARING OFFICER’S REPORT AND RECOMMENDATION ON OBJECTIONS”** has been served on the following parties via regular mail:

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Dated at San Juan, Puerto Rico, this 28th day of February 2007.

Maria Margarita Fernández
Hearing Officer