

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

In the Matter of:)	
)	
KIRKSTALL ROAD ENTERPRISES, INC./)	
QUAY STREET ENTERPRISES, INC.)	
)	
Employer,)	Case No. 2-RC-23547
)	
and)	
)	
WRITERS GUILD OF AMERICA, EAST, INC.)	
)	
Petitioner.)	
)	
)	

**EMPLOYER’S EXCEPTIONS TO THE DECISION DENYING ITS ELECTION
OBJECTIONS**

Kirkstall Road Enterprises, Inc./Quay Street Enterprises, Inc., the Employer in the above-captioned case (“Employer”), pursuant to Section 102.69(f) and (g) of the Rules and Regulations of the National Labor Relations Board (“Board”), excepts to the August 30, 2011 Decision of Administrative Law Judge Raymond P. Green (the “Judge”), as follows:

1. The Judge’s finding that there is no evidence of misconduct by the Regional Office in the manner in which the election was conducted is erroneous and contrary to the weight of the record evidence. (Page 2, lines 42-44)

2. The Judge’s finding that the Region’s personnel did their best to enfranchise all potential voters is erroneous and contrary to the record evidence. (Page 2, lines 44-45)

3. The Judge erred in finding that the only question at issue is whether due to inadvertence or unintentional error, certain ballots were misplaced between sending and receiving. (Page 2, lines 45-47).

4. The Judge's finding that the mail ballot list contained names and addresses of employees eligible to receive a mail ballot is erroneous to the extent that it asserts or implies that individuals not on the mail ballot list were not eligible to receive or vote by mail ballot. (Page 4, lines 13-15).

5. The Judge erred in finding that certain employees were supposed to vote by way of the manual election on November 30, 2010. (Page 4, lines 18-19)

6. The Judge's finding that employees who were to receive mail ballots were those who at the time of the manual election were employed but out of town on assignment or who were not then employed by the employer is erroneous to the extent that it asserts or implies that only such employees were eligible to vote by mail ballot. (Page 4, lines 23-25).

7. The Judge's finding that either party could request that an individual be added to the mail ballot list because the individual was not in New York and unavailable to vote in the manual election is erroneous to the extent it asserts or implies that other individuals were not entitled to vote by mail ballot. (Page 4, lines 28-30).

8. The Judge erred in finding that on only two or three occasions after November 17, 2010 the Union informed the Region that individuals had not received mail ballots where the evidence reflects several such occasions. (Page 4, lines 45-46).

9. The Judge erred in finding that on one or two occasions a Regional office employee telephoned an individual to ascertain whether he or she had received a ballot

where the record evidence reflects that such calls were placed to as many as five employees. (Page 5, lines 3-5).

10. The Judge erred in finding that there was at least one other mail ballot election being held by the Region at the time of the election at issue where the record evidence establishes that at least four other mail ballot elections were being conducted by the Region at the time of the election at issue. (Page 5, lines 17-19).

11. The Judge erred in finding that Rebecca Morton was not eligible to receive a mail ballot (or vote by mail). (Page 6, lines 28-29).

12. The Judge erred in finding that Zachary Wozniak was not eligible to receive a mail ballot (or vote by mail). (Page 6, lines 28-29).

13. The Judge erred in finding that it is of no consequence that Rebecca Morton did not receive a mail ballot. (Page 6, lines 31-32).

14. The Judge erred in finding that it is of no consequence that Zachary Wozniak did not receive a mail ballot. (Page 6, lines 31-32).

15. The Judge erred in finding that Charles Smith was not an eligible voter and was not entitled to vote (by mail or in person) in the election. (Page 6, lines 38-39).

16. The Judge erred in finding that Charles Smith's failure to receive a mail ballot is irrelevant. (Page 6, lines 39-40).

17. The Judge's finding that Alicia Gbur received a ballot but never mailed it back is erroneous and contrary to the weight of the record evidence. (Page 6, lines 43-44).

18. The Judge's finding that Alicia Gbur told her supervisor that she may have mixed the ballot up with her old newspapers and thrown it out is erroneous and contrary to record evidence. (Page 6, line 44 and Page 7, line 1).

19. The Judge's finding that Alicia Gbur refused to sign a statement averring she had not received a ballot is erroneous and contrary to record evidence. (Page 7, lines 1-3).

20. The Judge's finding that it is more likely than not that Michael Wechsler (erroneously named "Wexler" in the Decision) received a mail ballot while in California, which was discarded without being opened, is erroneous and contrary to the record evidence and the weight of the record evidence. (Page 7, lines 16-18).

21. The Judge erred in refusing to credit the uncontroverted testimony of Jacob Benattia concerning his receipt and return of a mail ballot. (Page 7, lines 30-31).

22. The Judge's finding that Jacob Benattia may have been motivated to testify falsely concerning his return of a mail ballot is erroneous and wholly unsupported by and contrary to the record evidence. (Page 7, footnote 6.)

23. The Judge erred in refusing to credit the uncontroverted testimony of Jill Sinclair concerning her receipt and return of a mail ballot. (Page 9, lines 29-30).

24. The Judge's finding that Jill Sinclair's recollection of the events surrounding her being contacted and questioned about her ballot was virtually non-existent is erroneous and contrary to the weight of the record evidence. (Page 9, lines 30-32).

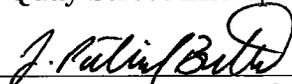
25. The Judge erred in finding that the mail ballots cast by Nora Connor, Deborah Mitchell and Allison Howard could not affect the outcome of the election. (Page 9, lines 39-40).

26. The Judge erred in finding that the Objections have no merit and erroneously dismissed the Employer's objections. (Page 9, lines 43-44).

Dated: September 27, 2011
New York, New York

Respectfully submitted,

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CERTIFICATION OF SERVICE

I certify that on September 27, 2011, I caused true copies of the foregoing Employer's Exceptions to the Decision Denying its Election Objections to be served by e-mail and overnight mail upon:

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J. Patrick Butler