

May 13, 2013

Via Electronic Filing

Gary Shinnars, Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570-0001

Re: Aaron Medical Transportation, Inc. and Hudson County Union Local One
Amalgamated
Case 22-RC-070888

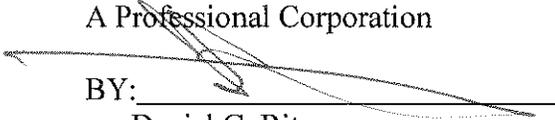
Dear Mr. Shinnars:

We represent Aaron Medical Transportation, Inc. ("Aaron"). Pursuant to the instructions contained in the Regional Director's Report on Objections and Notice of Hearing (the "Report") in the above referenced matter, and the Board's Rules and Regulations Section 102.69, I file this correspondence as a Request for Review of those portions of the Report overruling Aaron's Objections No. 2, 3, and 4 to the election that took place on March 22, 2013. Aaron contends that such objections raised substantial and material issues with respect to conduct affecting the results of the March 22, 2013 election. In that regard, Aaron relies on, and I attach for entry into the record, Aaron's submissions dated March 29, 2013 and April 12, 2013 in support of such objections. I also attach a Statement of Service pursuant to the Board's Rule and Regulations, Section 102.114(e).

Your attention to this matter is greatly appreciated.

Very truly yours,

ARCHER & GREINER
A Professional Corporation

BY: 
Daniel C. Ritson

Attachments.

Executive Secretary

May 13, 2013

Page 2

cc: J. Michael Lightner, Regional Director,
National Labor Relations Board, Region 22
Patrick Papalia, Esq.
Steven B. Harz, Esq.
Peter J. Cresci, Esq.
Mr. Joseph V. Thomas

Archer & Greiner P.C.
ATTORNEYS AT LAW

Daniel C. Ritson
Member of New Jersey and New York
Bar
dritson@archerlaw.com
201-498-8513 Direct

21 Main Street, Suite 353
Court Plaza South, West Wing
Hackensack, NJ 07601-7095
201- 342-6000 Main
201- 342-6611 Fax
www.archerlaw.com

March 29, 2013

Via E-Filing (www.nlr.gov)

National Labor Relations Board
Region 22
20 Washington Place, 5th Floor
Newark, NJ 07102-3110

Re: Aaron Medical Transportation, Inc. and Hudson County Union Local One
Amalgamated
Case 22 -RC-070888

Dear Sirs and Madams:

My firm represents Aaron Medical Transportation, Inc. ("Aaron"). This correspondence constitutes Aaron's objections to the election held on March 22, 2013, in which eligible employees were to determine whether or not to be represented by Hudson County Union Local One Amalgamated (the "Union"). As indicated below, Aaron objects both to the conduct of the election and to conduct affecting the results of the election, pursuant to §102.69(a) of the Rules and Regulations of the National Labor Relations Board (the "Board"). It should be noted at the outset that of the 109 employees contained on the *Excelsior* list¹, only 49 voted (26 for the Union, 22 for Aaron, and 1 challenged ballot). As such, only 45% of eligible voters cast a ballot, with only 24% of eligible voters casting a ballot in favor of the Union. The Union's unlawful and improper conduct described below had a material effect on the outcome of the election. As such, the election should be invalidated.

Aaron's particular objections are as follows:

1. The Election Schedule: Prior to the Notice of Second Election (the "Notice") being served by the Board, Aaron suggested that the election take place between 12:00 pm and 10:00 pm. The Union suggested that the election take place between 7:30 am and 10:30 am, with a second session between 3:00 pm and 5:00 pm. Ultimately, the Board advised via the Notice that the election would take place between 12:00 pm and 6:00 pm, with a second session between 10:00 pm and 12:00 am. That schedule resulted in at least 25 eligible voters being unable to

¹ As explained further below, the *Excelsior* list only should have contained 108 individuals, as the inclusion of former employee Carlos Chong on the list was inappropriate.

vote, as their shifts on March 22, 2013 were completed during the window in which the polls were closed. These employees were unable to vote and unable to wait hours to cast ballots.² A list of the 25 eligible voters in questions is attached to this correspondence.

2. Unlawful Presence by the Union: “[A] party engages in objectionable conduct sufficient to set aside an election if one of its agents is continually present in a place where employees have to pass in order to vote.” *U-Haul Co. of Nev., Inc. v. NLRB*, 490 F.3d 957, 964 (D.C.Cir. 2007), citing *Nathan Katz Realty, LLC v. NLRB*, 251 F.3d 981 (D.C. Cir. 2001). (Also, see *Performance Measurements Co.*, 148 NLRB 1657 [1964]; *Electric Hose & Rubber Co.*, 262 NLRB 186 [1982].) Union representatives were seen in such places throughout the day of the election, at intervals indicating that they were “continually present.”

At 12:45 pm, Joseph Thomas, President of Aaron, saw two individuals that he recognized as union representatives from the prior election in this matter (which took place on January 27, 2012), along with a third individual, loitering on the sixth floor of 3 University Plaza, Hackensack, New Jersey, Aaron’s current location. Mr. Thomas saw the union representatives at approximately 12:45 pm, 45 minutes after the polls had been opened to eligible employees. At 1:45 pm, Mr. Thomas saw the third individual continuing to loiter in the same place. Mr. Thomas approached the individual and asked whether he was an employee in the building. The individual responded, “I am not, I am with the Union guys to give them a hand.” Based on the positioning of the Union representatives, employees seeking to cast ballots could not have avoided them to access the polling area. This is particularly material in light of the prior improper and unlawful acts of the Union which left many Aaron employees hesitant and in fear of voting against the Union. As such the continuous presence of the Union person had a material effect on the vote.

In addition to the above, various Aaron employees who were eligible to vote became aware that Union representatives were seen at 3 University Plaza at approximately 4:30 pm. Union representatives were seen in the one parking lot utilized by Aaron’s employees, and through which they must pass at the beginning and end of their shifts. There is one entrance and exit to the parking lot.

Employees eligible to vote in the original January 27, 2012 election, but who did not support the Union, were subjected to profane statements and threats by the Union at the time of that election. Moreover, employees were aware of inappropriate racial language and threats directed to Mr. Thomas (such as the statement that Mr. Thomas’ legs would be broken) at that time. As such, when eligible voters became aware of the continued presence of Union representatives at 3 University Plaza on March 22, 2013, they understandably were reluctant to come to the polls. Numerous employees did not vote due to the continuous presence of the Union representatives. One such employee, among others, was Edwardo Tavares.

3. Attempted Fraud by Former Employee Tejash Radia: Tejash “TJ” Radia is a former employee of Aaron who was discharged on July 12, 2012. On March 22, 2013, Mr. Radia

² It is of no moment that some of the employees came on shift while the polls were open; employees going on shift often are hurried in their preparations for their shifts and would not be able to take time out to cast ballots.

appeared at the polling place and attempted to cast a ballot. However, he was recognized by Aaron's observer, Mike Tricoli, and was kept from voting. Mr. Radia attempted to cast a fraudulent ballot at the behest of the Union. In that regard, it should be noted that Mr. Radia was discharged long before Aaron moved to its current location at 3 University Plaza and he was aware both of the new location as well as the time of March 22, 2013 election.

4. The Ineligibility of Carlos Chong:

Mr. Chong was inadvertently included in the *Excelsior* list despite the fact that he resigned from employment at Aaron prior to the payroll period immediately preceding the Notice (which pay period concluded on February 19, 2013). He should not have been included. Mr. Chong reapplied for employment at Aaron on February 24, 2013 and was rehired on February 25, 2013. Mr. Chong was seen by, among others, Aaron employee Rana Khalid, approximately 35 minutes post-election speaking a union representative. Immediately thereafter, Mr. Chong again resigned from employment at Aaron.

Mr. Chong was ineligible to vote and appears to have returned to employment at Aaron for a very brief period to vote for the Union. Upon his exit from the polling area he and a Union person exchanged a "thumbs up."

Very truly yours,

ARCHER & GREINER
A Professional Corporation


BY: _____
Daniel C. Ritson

Attachment.

cc: Steven B. Harz, Esq.
Patrick Papalia, Esq.
Mr. Joseph V. Thomas

<u>Employee Name</u>	<u>3/22/13 "punch in"</u> <u>time</u>	<u>3/22/13 "punch out"</u> <u>time</u>
1 Taveras, Edwardo	10:20 AM	8:01 PM
2 Devita, Kandis	9:00 AM	8:05 PM
3 Burke, Christopher	8:14 AM	8:05 PM
4 Sepulveda, Ivan	8:00 AM	8:11 PM
5 Torres, Cassandra	8:53 AM	7:08 PM
6 Azeez, Mohammed	8:53 AM	6:15 PM
7 Smith, Brian	05:45 AM	6:18 PM
8 Tam, Jesse	1:02 PM	7:22 PM
9 Guirnalda, Paolo	10:08 AM	6:33 PM
10 DeDios, Raymond	8:00 AM	8:14 PM
11 Batista, Wendell	10:19 AM	7:05 PM
12 Batista, Andres	8:08 AM	6:42 PM
13 Aponte, Aja	7:56 AM	6:41 PM
14 Alzate, Marcela	12:51 PM	7:58 PM
15 Kovalcik, Stephen	5:45 AM	6:18 PM
16 Lopez, Landi	8:10 AM	8:02 PM
17 Mucka, Marisa	8:00 AM	7:42 PM
18 Nelson, Handy	8:17 AM	9:15 PM
19 Plange, Earnest	8:00 AM	8:10 PM
20 Rodgers, Peter	8:05 AM	8:45 PM
21 Silva, Rebecca	8:05 AM	8:42 PM
22 Boutaib, Jihare	11:51 AM	7:47 PM
23 Cahoon, Edward	10:00 AM	8:03 PM
24 Castillo, Giovanni	3:37 PM	7:57 PM
25 Daoud, Wissam	3:38 PM	7:43 PM

April 12, 2013

Via E-Filing (www.nlrb.gov)

J. Michael Lightner, Regional Director
National Labor Relations Board
Region 22
20 Washington Place, 5th Floor
Newark, NJ 07102-3110

Re: Aaron Medical Transportation, Inc. and Hudson County Union Local One
Amalgamated
Case 22 -RC-070888

Dear Director Lightner:

As you know, we represent Aaron Medical Transportation, Inc. ("Aaron"). In further support of Aaron's objections to the election held on March 22, 2013, and particularly in further support of Aaron's objections to (1) the unlawful presence of representatives of Hudson County Union Local One Amalgamated (the "Union") during the election; and (2) the improper vote by ineligible (now) former employee Carlos Chong, we submit the written statements of Kandis DeVita, Jose Alvarez, and Dante Sandia.

As the statements of Ms. DeVita and Mr. Alvarez indicate, each of those eligible voters did not cast a ballot as a result of being intimidated by the unlawful presence, on the date of the election, of the Union representatives at 3 University Plaza, Hackensack, New Jersey, Aaron's current location. Mr. Sandia's statement provides further detail with respect to the actions of Mr. Chong following the election. As previously advised, Mr. Chong cast a ballot (ostensibly for the Union) despite being ineligible to vote, and resigned from employment at Aaron nearly immediately after doing so.

Also as previously advised, Aaron's attempts to obtain further evidence with respect to its objections to the Election are continuing, and Aaron will continue to provide additional statements as employees come forward. Aaron expects that additional employees, who previously remained silent due to being intimidated by the Union's prior actions and presence at the election, will yet reveal themselves and provide further evidence of wrongdoing by the Union.

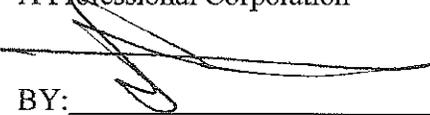
J. Michael Lightner, Regional Director

April 12, 2013

Page 2

Very truly yours,

ARCHER & GREINER
A Professional Corporation


BY: _____

Daniel C. Ritson

Attachments.

cc: Steven B. Harz, Esq.
Patrick Papalia, Esq.
Mr. Joseph V. Thomas
Peter J. Cresci, Esq. (via facsimile 201-436-9220)

TO Sean Sullivan
Director of operations

ON the afternoon of MARCH 22, 2013, I saw three men standing in the parking lot of Aaron Ambulance. Two men I seen at the union meeting, one with earrings the other had tattoos when I saw them last year when we were at Hasbrouck Heights. The third man I never seen before; and he appeared to be Indian desendant. These men were standing in the back parking lot talking. I felt threatened because of the things (threats) I heard them say about Mr Thomas previously, so I did not want to go upstairs to vote because I would have had to cross paths with guys. I also heard these guys curse at some of my fellow employees last year. So to avoid the confrontation I went my own way.

IF you have any concerns
Please let me know.

KANDIS DEYITA
KANDIS DEYITA, EMT
Aaron Ambulance.

To Sean, Aaron Ambulance

Sean, I want to let you know that on 3-22-13 I did not vote. I was intimidated when I saw the union guys again, then again when they were standing around the office building, when I would walk over to the office building, I had one of those guys walk over to me. Last year when they came they were cursing people who went against them. When Pete Amaroso was upset a couple of days before the election, he told me he felt threatened by them. Even the unprofessional letter sent to me from the union. The letter had such abusive language from last year. Even my boss who hired me and treated well, he also felt threatened by them. This has been a big talk among us.

I wanted to vote no for the union.

Jose Alvarez
EMT

Aaron Ambulance

TO, Sean Sullivan

On 3/22/13 (Union Election Day) I was in the office. Around 12 midnight Carlos Chang, EMT-3, punched out and was standing around by the elevators and hallway. Around 11:35 he walked into the office and removed his jacket and shirt and EMT badge and said that he was quitting his job. Couple of minutes later Ranaah Khalid came to me^② and told me that he saw Carlos giving a thumbs up to the union delegate who was coming out of the booth

I believe that Carlos was set up by the union to come back to work at Aaron for a very short time, so that he could vote on 3/22/13 and left immediately. I knew previously Carlos worked at Gaurdian Ambulance in Paterson where this same Union held an election. Everything looks suspicious to me.


Dante Sandia EMT

AARON MEDICAL TRANSPORTATION, INC.
Employer

And

Case 22-RC-070888

HUDSON COUNTY UNION LOCAL 1 AMALGAMATED
Petitioner

**Statement of Service Pursuant to National Labor Relations Board Rules and Regulations,
Section 102.114(e)**

DANIEL C. RITSON hereby certifies as follows:

1. I am an associate attorney of the firm of Archer & Greiner, P.C., attorneys for the Employer, Aaron Medical Transportation, Inc. ("Aaron"), in this matter.
2. On May 13, 2013, I filed on behalf of Aaron, via electronic filing, a Request for Review of the Regional Director's Report on Objections and Notice of Hearing.
3. I served a copy of the Request for Review on Peter J. Cresci, Esq., counsel to the Petitioner, Hudson County Union Local 1 Amalgamated, via electronic mail at crescilegal@gmail.com.
4. I served a copy of the Request for Review on the Regional Director's office via facsimile at (973) 645-3852.
5. I certify under penalty of perjury that the foregoing is true and correct.

ARCHER & GREINER, P.C.
Court Plaza South, West Wing
21 Main Street, Suite 353
Hackensack, NJ 07601
Phone: 201-342-6000
Fax: 201-342-6611
Attorneys for Aaron Medical Transportation, Inc.


By: _____
Daniel C. Ritson

Dated: May 13, 2013