

NOT TO BE INCLUDED
IN BOUND VOLUMES

PJMc
Methuen, MA

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

SSC METHUEN OPERATING COMPANY
LLC, D/B/A METHUEN HEALTH &
REHABILITATION CENTER
Employer

and

Case 01-RC-137636

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
DISTRICT LODGE 15, AFL-CIO
Petitioner

DECISION AND DIRECTION

The National Labor Relations Board, by a three-member panel, has considered objections to an election held November 6, 2014, and the Regional Director's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 21 for and 25 against the Petitioner, with 1 void ballot and 4 challenged ballots.

The Board has reviewed the Report on Objections in light of the exceptions and brief, has adopted the Regional Director's findings and recommendations, and finds that the void ballot should be counted as a "yes" vote.¹

¹ In adopting the Regional Director's finding that the void ballot – which was unmarked on the front and had "yes" handwritten on the back – should be counted as a "yes" vote, we correct his citations to supporting precedent, *Hydro Conduit Corp.*, 260 NLRB 1352 (1982), and *The Celotex Corp.*, 266 NLRB 802 (1983). Member Johnson notes that *Hydro Conduit* implicitly rejected the idea that the mere placement of a vote on the reverse side of the ballot risks identifying the voter, which was the position taken by former Member Fanning in his partial dissent there. Although Member Johnson agrees with former Member Fanning to the extent that extrinsic evidence might show that

DIRECTION

IT IS DIRECTED that the Regional Director for Region 1 shall, within 14 days from the date of this Decision and Direction, count the void ballot as a “yes” vote and issue a revised tally of ballots. The Regional Director shall thereafter take appropriate action on the determinative challenged ballots.

Dated, Washington, D.C., June 1, 2015.

Mark Gaston Pearce, Chairman

Harry I. Johnson, III, Member

Lauren McFerran, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

intentional placement of a vote on the reverse side of a ballot was designed to and could reveal a voter’s identity, there is absolutely no evidence that such circumstances occurred here. Indeed, the Employer acknowledges that its argument on this point rests on speculation. Employer’s Br. at 3 (“While a ballot such as the one in this case *does not plainly disclose* the identity of the voter, such a method -- writing on the back of the ballot -- *could be used* by a party to an election to ensure an employee votes in a pre-specified manner.”) (emphasis added). Member Johnson finds the lack of evidence is fatal to the Employer’s position, even were its argument accepted.