

NOT INCLUDED
IN BOUND VOLUMES

Oakland, CA

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

COMPREHENSIVE CARE OF OAKLAND LP
d/b/a BAY AREA HEALTHCARE CENTER

Employer

and

Case 32--RD--134177

CAYETANO SANCHEZ

Petitioner

and

SERVICE EMPLOYEES INTERNATIONAL
UNION-UNITED HEALTHCARE WORKERS-
WEST (SEIU-UHW)

Union

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

The National Labor Relations Board, by a three-member panel, has considered objections to an election held on February 18, 2015, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Decision and Direction of Election. The tally of ballots shows 32 for and 51 against the Union, with one challenged ballot, an insufficient number to affect the results.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the hearing officer's findings¹ and recommendations, and finds that a certification of results of election should be issued.²

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for Service Employees International Union-United Healthcare Workers-West (SEIU-UHW), and that it is not the exclusive representative of these bargaining-unit employees.

Dated, Washington, D.C. September, 29, 2015.

Philip A. Miscimarra, Member

Kent Y. Hirozawa, Member

¹ The Union has excepted to some of the hearing officer's credibility findings. The Board's established policy is not to overrule a hearing officer's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Stretch-Tex Co.*, 118 NLRB 1359, 1361 (1957). We have carefully examined the record and find no basis for reversing the findings.

Here, the alleged objectionable conduct involved a party to the election. Accordingly, in adopting the hearing officer's findings, we rely on his citation to *Cambridge Tool & Mfg. Co.*, 316 NLRB 716, 716 (1995), a case that sets forth the appropriate party standard. We do not rely on his statement that the objecting party must show "reasonable doubt as to the fairness and validity of the election," a standard used when the objection involves Board agent misconduct. *Patient Care of Pennsylvania*, 360 NLRB No. 76 (2014) (citing *Polymers, Inc.*, 174 NLRB 282, 282 (1969), enfd. 414 F.2d 999 (2d Cir. 1969), cert. denied 396 U.S. 1010 (1970)).

² There is no basis to find that the Employer engaged in the objectionable solicitation of grievances. The Union failed to file a timely objection under Section 102.69(a) of the Board's Rules and Regulations raising this contention, and offers no explanation for that failure. In any event, in support of its contention the Union relies solely on the testimony of Mary Shelby, whom the hearing officer discredited.

Lauren McFerran, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD