

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CPI INDUSTRIES, INC.  
Employer

and

Case 29-RC-138950

INTERNATIONAL ASSOCIATION OF SHEET  
METAL AIR RAIL & TRANSPORTATION  
WORKERS, LOCAL NO. 28, AFL-CIO  
Petitioner

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

The National Labor Relations Board, by a three-member panel, has considered a determinative challenge in an election held on May 29, 2015, and the Regional Director's report recommending disposition of it.<sup>1</sup> The election was conducted pursuant to a Stipulated Election Agreement. The tally of the ballots shows 19 for and 19 against the Petitioner, with 2 challenged ballots, a number sufficient to affect the results.

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<sup>1</sup> The Petitioner excepts to the Regional Director's recommendation to sustain the challenge to the ballot of Ras McDaniel.

In the absence of exceptions, we adopt pro forma the Regional Director's recommendation to sustain the challenge to the ballot of Alexander Castillo, as well as the Regional Director's recommendation to overrule the Petitioner's Objections 1, 2, 3, and 5. Additionally, in the absence of exceptions, we adopt pro forma the hearing officer's recommendation to overrule the Petitioner's Objection 4.

Member Miscimarra agrees with the Regional Director's statement that front pay is not a remedy the Board includes in its remedial orders under existing law, and "the approval of a settlement agreement. . . does not constitute a Board finding regarding the appropriateness of an award of front pay in lieu of reinstatement." For the reasons expressed in his partial dissent in *Pacific Beach Hotel*, 361 NLRB No. 65, slip op. at 15-26 (2014) (Member Miscimarra, concurring in part and dissenting in part), Member Miscimarra believes that a Board award of front pay in lieu of reinstatement would exceed the Board's remedial authority under the Act. *Pacific Beach Hotel*, supra, slip op. at 22-26.

The Board has reviewed the report in light of the exceptions,<sup>2</sup> has adopted the Regional Director's findings and recommendation, and finds that a certification of results of election should be issued.

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for International Association of Sheet Metal Air Rail & Transportation Workers, Local No. 28, AFL-CIO, and that it is not the exclusive representative of these bargaining unit employees.

Dated, Washington, D.C., October 27, 2015.

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PHILIP A. MISCIMARRA, MEMBER

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KENT Y. HIROZAWA, MEMBER

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LAUREN McFERRAN, MEMBER

(SEAL)

NATIONAL LABOR RELATIONS BOARD

<sup>2</sup> We have treated the Petitioner's "Request for Review" as exceptions to the Regional Director's Report on Objections and Challenges and Notice of Hearing.