

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMERICAN INDIAN COMMUNITY HOUSING  
ORGANIZATION

Employer

and

Case 18-RD-154756

CRYSTAL PARNIN AND SETH BOROVSKY

Petitioners

and

AMERICAN FEDERATION OF STATE, COUNTY,  
AND MUNICIPAL EMPLOYEES, LOCAL 3558  
(A/K/A/ AFSCME LOCAL 3558)

Union

ORDER

The Union's Request for Review of the Acting Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.<sup>1</sup>

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

KENT Y. HIROZAWA, MEMBER

Dated, Washington, D.C., December 11, 2015.

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<sup>1</sup> We agree with the Acting Regional Director's finding that the Union failed to establish a contract bar. We find that the Union failed to meet its burden of proving that the agreement was ratified, and thus failed to prove that a condition precedent for contract formation occurred prior to the petition's filing. We find it unnecessary to pass on the Acting Regional Director's other reasons for finding the parties' March 24 email exchange insufficient to establish a contract bar.

Further, we find that the Acting Regional Director, through the hearing officer, correctly prohibited the parties from litigating the appropriateness of the unit at the hearing because neither the Union nor the Employer raised this issue in its statement of position, and they both indicated in their statements of position that the unit in the petition is appropriate. See Board's Rules & Regulations Section 102.66(d) (effective April 14, 2015). Member Miscimarra finds that the Regional Director correctly determined the unit in the petition was appropriate and coextensive with the preexisting certified or recognized unit, *Mo's West*, 283 NLRB 130, 130 (1987), and Member Miscimarra does not reach or rely on the Union's failure to challenge unit appropriateness in its statement of position.