

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL RELATIONS BOARD
REGION 13**

| | | |
|----------------------------|---|---------------|
| ARAMARK UNIFORM & CAREER |) | |
| APPAREL, LLC |) | |
| and |) | 13-RC- 176276 |
| TEAMSTER LOCAL 731 |) | |
| Petitioner |) | |
| and |) | |
| NATIONAL PRODUCTION WORKER |) | |
| UNION LOCAL 707 |) | |
| Intervenor |) | |

REQUEST FOR REVIEW

Submitted by:

INTERVENOR:

TRUCK DRIVERS UNION LOCAL 707
NATIONAL PRODUCTION WORKERS UNION
1420 Kensington Road, Suite 335
Oak Brook, Illinois 60523

Via Attorney:

Patrick J. Calihan
53 W. Jackson Blvd. – Suite 1534
Chicago, Illinois 60604
(312) 922-3113
Fax (312) 922-7576
pcalihan@sbcglobal.net

REQUEST FOR REVIEW

On June 24, 2016 the Regional Director for the National Labor Relations Board, Region 13, issued a Report on Objections and Certification of Representative without holding a hearing on the merits of Objections filed by the Intervenor to the conduct of an election held between the above parties. Intervenor Local 707 files herein its Request for Review pursuant to Section 102.69(c)(2).

INTRODUCTION

On June 6, 2016, a representation election was held among employees at the above employer's facility located in Burr Ridge Illinois. Out of the 94 eligible voters, 38 employees voted for the Petitioner (Local 731) and 29 employees voted for the Intervenor (Local 707). 27 employees did not vote in the election. Pursuant to Section 102.69(a) of the National Labor Relations Board's Rules and Regulations the Intervenor filed timely objections on June 13, 2016 to conduct affecting the results of the election that occurred during a critical period in above matter. On June 20, 2016 the Intervenor identified the witness to the three previously detailed Objections. The Region overruled the objections in their entirety.

FACTUAL MERITS

This request for review is sought upon the grounds that Region 13's refusal to conduct a hearing raises a substantial policy question as to its departure from and/or absence of Board Precedent, under the circumstances presented herein, pursuant to Section 102.67(e). By refusing to even consider the proofs at a hearing and by misreading the nature of what was presented, the regional director's decision to not even consider the substantial factual issues presented in the Intervenor's objections, was clearly erroneous and has prejudicially affected the rights of the Intervenor.

The Intervenor objected, *with specificity*, to three areas of conduct that showed that the election had been tainted:

1. The Employer failed to block the supervisory staff from viewing employees as they went into the polling place, as they had done in previous elections, wherein paper was applied to the windows directly adjacent to the polling place entrance in order to insure privacy – this intimidation caused union supporters not to vote.
2. Teamsters truck drivers were also allowed to campaign on the premises of the employer thereby giving employees the impression of overwhelming Teamster support.
3. These and other activities had the effect of discouraging many employees from voting as evidenced by the low turnout – 27 employees never even attempted to vote.

The Region asserts '*Intervenor did not file an offer of proof with its objections*'.

This is erroneous – an offer of proof was filed on June 20, 2016, identifying the witness to the previously submitted *specific* areas of conduct objected to on June 13th. [See attached Proof of Local 707’s Objections to the Election file stamped June 20, 2016.] The offer of proof was timely filed within seven days of the objections in compliance with Board precedent. See *Kano Trucking Service, Ltd.*, 295 N.L.R.B 514, 131 L.R.R.M. (BNA) 1710 (1989), and *Craftmatic Comfort Manufacturing Corp.*, 299 N.L.R.B. 514, 135 L.R.R.M. (BNA) 1058 (1990).

Thus when Region 13 ruled against the Intervenor’s Objections without reaching the merits after a hearing: ‘Based on (1) the Intervenor’s failure to include the requisite offer of proof with its objections’ (page 2 of Report) – said decision ignored the June 20th filing with its attendant specific fact allegations and identified witness. The conduct was clearly erroneous and had prejudiced the right of the Intervenor to present evidence on the issues of election misconduct.

According to Section 102.69(c) (1)(i) on Decisions resolving objections and challenges without a hearing, said resolution may occur if: “ the regional director determines that the evidence described in the accompanying offer of proof *would not* constitute grounds for setting aside the election if introduced at a hearing, *and* the regional director determines that any determinative challenges *do not* raise substantial *and* material facts...”. (Emphasis added). The Report on Objections and Certification of Representative contains no such analysis.

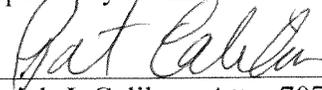
As to the second reason the Region overruled the Intervenor’s objections ‘in their entirety’, and decided *not* to hold an evidentiary hearing, said Region stated ‘and (2) the Intervenor’s failure to serve a copy of the objections on all parties and include a certificate of service with its objections’ (bottom of page 2 of Report). On this issue, Intervenor submits the following:

First, Section 102.69(a) ambiguously states at the end of the paragraph setting forth its service instructions that: “The regional director will transmit a copy of the objections to be served on each of the other parties to the proceeding, but shall not submit the offer of proof”. [Page 42 of the Board’s Rules and Regulations] This sentence appears to be confusing and in contradiction to some of the language contained earlier in that Section.

Second, upon the filing of the objections on June 13, 2106, the Regional Director sent a letter ‘acknowledging receipt of the objections’ filed on behalf of the Intervenor without mention of the lack of inclusion of certificate of service. [See attached correspondence dated June 13, 2016.] Intervenor was not on notice that said filed Objections were deficient in any way or the omission could have been corrected.

FOR ALL OF THE ABOVE REASONS, the Board is requested to set aside the Order on Objections and Certification of Representative issued by Region 13 and to order a hearing be conducted on the merits of Intervenor’s Objections.

Respectfully submitted

A handwritten signature in cursive script, appearing to read "Pat Calihan".

Patrick J. Calihan, Atty. 707

DATED: JULY 6, 2016

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| UNION LOCAL 707 |) | |
| Intervenor |) | |

PROOF OF LOCAL 707'S OBJECTIONS TO THE ELECTION

Local 707, NPWU intends to rely upon the following witnesses to meet its burden of proof with regard to the Objections to Election filed in Case No. 13-RC-176276.

1. *The Employer failed to block the supervisory staff from viewing employees as they went into the polling place, as they had done in previous elections, wherein paper was applied to the windows directly adjacent to the polling place entrance in order to insure privacy – this intimidation caused union supporters not to vote.*

This was witnessed by numerous people including: Emillia Salgado.

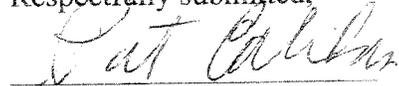
2. *Teamster truck drivers were allowed to campaign on the premises of the employer thereby giving employees the impression of overwhelming Teamster support.*

This was witnessed by numerous people including: Emillia Salgado.

3. *These and other activities had the effect of discouraging many employees from voting as evidenced by the low turnout – 27 employees never even attempted to vote.*

This was witnessed by numerous people including: Emillia Salgado.

Respectfully submitted,



Patrick J. Calihan, Atty. 707

DATED: JUNE 20, 2106

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604-1443

Agency Website: www.nlr.gov
Telephone: (312)353-7570
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June 13, 2016

Patrick J. Calihan
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Fax: (312)922-7576

Re: Aramark Uniform & Career Apparel, LLC
Case 13-RC-176276

Dear Mr. Calihan:

This will acknowledge receipt of the objections you filed in the above-referenced case.

If I determine that the evidence described in your offer of proof would not constitute grounds for setting aside the election if introduced at a hearing, I will issue a decision disposing of the objections. However, if I determine that the evidence described in the offer of proof could be grounds for setting aside the election if introduced at a hearing, I will transmit to the parties and their designated representatives a Notice of Hearing before a hearing officer at a place and time fixed therein. Unless consolidated with an unfair labor practice proceeding, the hearing will be set for June 28, 2016 or as soon as practicable thereafter, unless the parties agree to an earlier date.

If you have any questions or wish to discuss this matter, please contact Field Examiner MATTHEW T. PERSONS, whose telephone number is (312)353-4242.

Very truly yours,

/s/ Peter Sung Ohr

PETER SUNG OHR
Regional Director

Enclosure: Copy of Objections

CERTIFICATE OF SERVICE

One copy of the foregoing REQUEST FOR REVIEW has been served upon the following on July 6, 2016 via email.

Regional Director - Region 13
National Labor Relations Board
219 South Dearborn Street, Suite 808
Chicago, Illinois 60604
Via: Lori.Brown@nlrb.gov
Matthew.Persons@nlrb.gov
Paul.Hitterman@nlrb.gov

Matthew S. Emmick, Organizer
Teamsters Joint Council 25 (on behalf of Local 731)
1300 W Higgins Rd., Suite 220
Park Ridge, Illinois 60068
Via: matt@teamstersjc25.com

Terrance B. McGann, Attorney for Local 731
111 East Wacker Drive, Suite 2600
Chicago, Illinois 60601
Via: tmcgann@whitfield-mcgann.com

Aramark Uniform & Career Apparel, LLC
7650 S Grant Street
Burr Ridge, Illinois 60527
Via: dotson-michael@aramark.com
mayer-scott@aramark.com



Truck Drivers Union Local 707, NPWU

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