

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES**

**AUDIO VISUAL SERVICES GROUP, INC., D/B/A
PSAV PRESENTATION SERVICES**

and

Case 19-CA-167454

**INTERNATIONAL ALLIANCE OF THEATRICAL
STAGE EMPLOYEES, LOCAL 15**

JOINT MOTION AND STIPULATION OF FACTS

The parties to this case, Audio Visual Services Group, Inc., d/b/a PSAV Presentation Services ("Respondent"), International Alliance of Theatrical Stage Employees, Local 15 ("Charging Party"), and Counsel for the General Counsel ("General Counsel"), jointly move to waive a hearing with respect to the sole allegation in this matter and to authorize the Administrative Law Judge ("ALJ") to issue a decision pursuant to § 102.35(a)(9) of the Rules and Regulations of the National Labor Relations Board ("Board"). The waiver of the hearing will effectuate the purposes of the Act and avoid unnecessary costs and delay. This Motion is not intended in any way to waive the parties' rights to obtain judicial review of any Decision and Order the Board issues in this case based on this stipulated record.

If this Motion is granted, the parties agree to the following:

1. The record in this matter, Case 19-CA-167454, consists of the Charge and Amended Charge, the Complaint, the Answer to the Complaint, the Stipulation of Facts (provided below) together with any exhibits attached thereto, and each party's Statement of Issue Presented and Statement of Position.
2. This matter is submitted directly to the ALJ for issuance of findings of fact, conclusions of law, and an order.
3. The parties waive a hearing before an ALJ.

4. The parties have withdrawn all subpoenas for witness testimony or for the production of documents any of them have served in connection with the hearing that was scheduled to occur before the ALJ.

5. The ALJ should set the time for the filing of briefs.

The parties also jointly agree to the following Stipulation of Facts in this matter. This stipulation is made without prejudice to any objection any party may have as to the relevance of any facts stated herein.

STIPULATION OF FACTS

1. The Charge in this matter, which is attached as Exhibit A, was filed by the Charging Party on January 7, 2016, and was served on Respondent by regular mail on January 12, 2016.

2. On June 23, 2016, the Regional Director of Region 19 of the Board ("Regional Director") issued a Complaint and Notice of Hearing ("Complaint") in this matter, which is attached as Exhibit B.

3. On July 6, 2016, Respondent filed a timely Answer to the Complaint, which is attached as Exhibit C, denying that it had violated the National Labor Relations Act ("Act").

4. Respondent is a State of Delaware corporation with offices and places of business in Tukwila, Seattle, Sea-Tac, Bellevue, and Tacoma, Washington, where it is engaged in the business of providing event technology services.

5. In conducting its operations described above in paragraph 4, during the past 12 months, which period is representative of all material times, Respondent received gross revenue in excess of \$500,000.

6. In conducting its operations described above in paragraph 4 during the past 12 months, which period is representative of all material times, Respondent purchased and received at its facilities located within the State of Washington goods valued in excess of \$50,000 directly from points outside the State of Washington.

7. At all material times, Respondent has been, and is, an employer engaged in commerce within the meaning of §§ 2(2), (6), and (7) of the Act.

8. At all material times, the Charging Party has been a labor organization within the meaning of § 2(5) of the Act.

9. On October 6, 2015, the Charging Party filed a petition in Case 19-RC-161471, which is attached as Exhibit D, seeking to represent the following employees ("Unit") of Respondent at its facilities in Seattle, Sea-Tac, Bellevue, Tukwila, and Tacoma, Washington:

all full-time and regular part-time technicians, including entry-level technicians, senior technicians, lead technicians, driver technicians, concierges, equipment repair QC specialists, technical specialists, and warehouse technicians.

10. On October 23, 2015, the Regional Director issued a Decision and Direction of Election ("D&DE") in Case 19-RC-161471, which is attached as Exhibit E, finding that the Unit constitutes a unit appropriate for the purpose of collective bargaining and directing that a mail ballot election be held among the employees in the Unit.

11. Based on the D&DE, a mail ballot election was held among Respondent's employees from November 16 to November 30, 2015. On November 30, 2015, the ballots were counted and an initial Tally of Ballots showed a determinative number of challenged ballots. That Tally is attached as Exhibit F.

12. On December 18, 2015, the Regional Director issued a Decision on Challenges and Objection and Certification of Representative ("DCO&CR") in Case 19-RC-161471, which is attached as Exhibit G.

13. On January 4, 2016, Respondent filed a Request for Review of the D&DE and DCO&CR with the Board, which is attached as Exhibit H.

14. On February 12, 2016, Region 19 advised Respondent and Charging Party via email that the charge attached as Exhibit A was being held in abeyance pending the Board's ruling on Respondent's Request for Review. That email is attached as Exhibit I.

15. On May 19, 2016, the Board denied Respondent's Request for Review, which denial is attached as Exhibit J.

16. On about January 4, 2016, and May 23, 2016, the Charging Party, by email to an agent of Respondent, requested that Respondent recognize it as the exclusive collective-bargaining representative of the Unit and bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit. Those emails are attached as Exhibit K.

17. From about January 4, 2016, to May 23, 2016, Respondent declined to recognize and enter into collective bargaining negotiations with the Charging Party as the exclusive collective-bargaining representative of the Unit.

18. On May 23, 2016, by email, Respondent agreed to Charging Party's request to participate in collective bargaining negotiations with the Charging Party and worked with the Charging Party to coordinate available negotiation dates. That email chain is attached as Exhibit L. To date, Respondent and the Charging Party have engaged in multiple bargaining sessions during which they have exchanged both proposals and counterproposals, reaching tentative agreement on several contractual provisions. Additional negotiations are currently scheduled.

STATEMENTS OF ISSUE PRESENTED

1. The General Counsel and Charging Party frame the issue as: Whether Respondent violated §§ 8(a)(1) and (5) by refusing to recognize and bargain with the Charging Party as the exclusive collective-bargaining representative of the Unit after the Charging Party had been certified as such, but before the Board had denied Respondent's Request for Review of that certification.

2. Respondent frames the issue as: Whether Respondent violated §§ 8(a)(1) and (5) by declining to enter into collective bargaining negotiations with the Charging Party as the exclusive collective-bargaining representative of the Unit while Respondent's Request for

Review of the Regional Director's DCO&CR in Case 19-RC-161471 was pending before the Board.

POSITIONS OF THE PARTIES

A. General Counsel's Position

The General Counsel's position is that Respondent violated §§ 8(a)(1) and (5) of the Act by refusing to recognize the Charging Party and bargain after the Charging Party was certified as the exclusive bargaining representative of the Unit. Given the nature of the violation, the General Counsel requests that Respondent be ordered to bargain in good faith with the Union, on request, for the period required by *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962), as the recognized bargaining representative in the appropriate unit. The General Counsel also requests that a representative of Respondent be ordered to read the notice to the employees on work time in the presence of a Board agent, or that Respondent promptly have a Board agent read the notice to employees during work time in the presence of Respondent's agent.

B. Respondent's Position

Respondent's position is that it did not violate §§ 8(a)(1) and (5) of the Act by declining to enter into collective bargaining negotiations with the Charging Party prior to the Board's denial of its Request for Review on May 19, 2016, due to the conditional nature of the Regional Director's issued DCO&CR and further supported by Region 19's advising the parties that the charge would be held in abeyance pending the Board's ruling on Respondent's Request for Review. Therefore, Respondent had no bargaining obligation until after the Board's May 19, 2016 decision, and the Complaint should be dismissed.

C. Charging Party's Position

The Charging Party's position is that Respondent violated §§ 8(a)(1) and (5) of the Act by refusing to recognize the Charging Party and bargain after the Charging Party was certified as the exclusive bargaining representative of the Unit. The Charging Party concurs with the General Counsel as to the remedy for the violation.

Audio Visual Services Group, Inc., d/b/a PSAV Presentation Services

By: Michael Willats Date: 10/12/2016
MICHAEL WILLATS
COUNSEL FOR PSAV

Counsel for the General Counsel, National Labor Relations Board

By: Carolyn McConnell Date: 10/12/16
Carolyn McConnell

International Alliance of Theatrical Stage Employees, Local 15

By: Kathryn M Spohr Date: 10/12/2016
Counsel

Attachments

EXHIBIT A

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**Case
19-CA-167454Date Filed
1/7/2016**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer PSAV Presentation Services		b. Tel. No. 206-631-8484
		c. Cell No.
		f. Fax No. 206-652-4766
d. Address (Street, city, state, and ZIP code) 26020 201st Place SE Covington, WA 98042	e. Employer Representative Jaymes Toycen	g. e-Mail jtoycen@psav.com
		h. Number of workers employed approx. 65
i. Type of Establishment (factory, mine, wholesaler, etc.) Service Provider	j. Identify principal product or service Event Presentation Services	

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within the past six (6) months the Employer has violated section 8(a)(1) and (5) of the Act by failing to bargain with the Union after the Union became certified, despite the Union's request that it do so.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

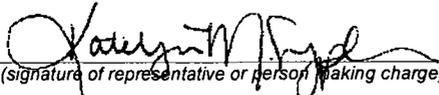
International Alliance of Theatrical Stage Employees, Local 15

4a. Address (Street and number, city, state, and ZIP code) 2800 1st Ave, Suite 231 Seattle, WA 98121	4b. Tel. No. 206-441-1515
	4c. Cell No.
	4d. Fax No. 206-448-5325
	4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the U.S., its Territories and Canada

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By 
(signature of representative or person making charge)Katelyn Sypher, Attorney
(Print/type name and title or office, if any)

Address 18 W Mercer St, Suite 400, Seattle, WA 98119

1/7/16
(date)

Tel. No. 206-257-6021

Office, if any, Cell No.

Fax No. 206-378-4132

e-Mail
sypher@workerlaw.com**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)****PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

RECEIVED-NLRB-REGION 19

2016 JAN -7 P 4: 26

SEATTLE, WASHINGTON

EXHIBIT B

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

**AUDIO VISUAL SERVICES GROUP, INC., D/B/A
PSAV PRESENTATION SERVICES**

and

Case 19-CA-167454

**INTERNATIONAL ALLIANCE OF THEATRICAL
STAGE EMPLOYEES, LOCAL 15**

COMPLAINT AND NOTICE OF HEARING

This Complaint is based on a charge filed by International Alliance of Theatrical Stage Employees, Local 15 (the "Union"). It is issued pursuant to § 10(b) of the National Labor Relations Act (the "Act"), 29 U.S.C. § 151 *et seq.*, and § 102.15 of the Rules and Regulations of the National Labor Relations Board (the "Board"), and alleges that Audio Visual Services Group, Inc., d/b/a PSAV Presentation Services ("Respondent"), herein called by its correct name, has violated the Act as described below.

1.

The charge in this proceeding was filed by the Union on January 7, 2016, and a copy was served on Respondent by U.S. mail on January 12, 2016.

2.

(a) At all material times, Respondent has been a State of Delaware corporation with offices and places of business in Tukwila and Tacoma, Washington (the "facilities"), where it is engaged in the business of providing event technology services.

(b) In conducting its operations described above in paragraph 2(a) during the past 12 months, which period is representative of all material times, Respondent received gross revenue in excess of \$500,000.

(c) In conducting its operations described above in paragraph 2(a) during the past 12 months, which period is representative of all material times, Respondent purchased and received at the facilities goods valued in excess of \$50,000 directly from points outside the State of Washington.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of §§ 2(2), (6), and (7) of the Act.

3.

At all material times, the Union has been a labor organization within the meaning of § 2(5) of the Act.

4.

At all material times, an unnamed agent held the position of Respondent's attorney and has been an agent of Respondent within the meaning of § 2(13) of the Act.

5.

(a) The following employees of Respondent ("Unit") constitute a unit appropriate for the purposes of collective bargaining within the meaning of § 9(b) of the Act:

All full-time and regular part-time technicians, including entry-level technicians, senior technicians, lead technicians, driver technicians, concierges, equipment repair QC specialists, technical specialists, and warehouse technicians employed by Respondent at its Seattle, Sea-Tac, Bellevue, Tukwila, and Tacoma, Washington facilities.

(b) On December 18, 2015, in Case 19-RC-161471, the Union was certified as the exclusive collective bargaining representative of the Unit.

(c) On May 19, 2016, the Board denied Respondent's request for review of the certification of representative in Case 19-RC-161471.

(d) At all times since December 18, 2015, based on § 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

6.

(a) On about January 4, 2016, the Union, by e-mail, requested that Respondent recognize and bargain with it as the exclusive collective-bargaining representative of the Unit.

(b) On about May 23, 2016, the Union, by e-mail, renewed its request for recognition and bargaining.

(c) From about January 4, 2016, to May 23, 2016, Respondent failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

7

By the conduct described above in paragraph 6, Respondent has failed and refused to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of §§ 8(a)(1) and (5) of the Act.

8.

The unfair labor practices of Respondent described above affect commerce within the meaning of §§ 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraph 6, the General Counsel seeks an Order requiring that, at a meeting or meetings scheduled to ensure the widest possible attendance, a responsible agent of Respondent, such as the unnamed agent set forth in paragraph 4 above, read the notice to the employees on work time in the presence of a Board agent. Alternatively, the General Counsel seeks an order requiring that Respondent promptly have a Board agent read the notice to employees during work time in the presence of Respondent's agent identified above in paragraph 4.

WHEREFORE, as part of the remedy for Respondent's unfair labor practices alleged above in paragraph 6, the General Counsel seeks an Order requiring Respondent to bargain in good faith with the Union, on request, for the period required by *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962), as the recognized bargaining representative in the appropriate unit.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to §§ 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before July 7, 2016, or postmarked on or before July 6, 2016.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case

Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See § 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on the 25th day of October, 2016, at 9 a.m., in the James C. Sand Hearing Room of the Jackson Federal Building, 915 Second

Avenue, Seattle, Washington, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Seattle, Washington, this 23rd day of June, 2016.



RONALD K. HOOKS
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006

Attachments

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 19-CA-167454

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

CERTIFIED MAIL NO.
7015 1520 0000 8841 6110

REGULAR MAIL

JAYMES TOYCEN
REGIONAL VICE PRESIDENT
PSAV PRESENTATION SERVICES
26020 201ST PL SE
COVINGTON, WA 98042-6123

KATELYN SYPHER, ATTORNEY
SCHWERIN CAMPBELL BARNARD
IGLITZIN & LAVITT LLP
18 WEST MERCER STREET SUITE 400
SEATTLE, WA 98119

REGULAR MAIL

DAVID S. SHANKMAN, ATTORNEY
SHANKMAN LEONE, P.A.
707 N. FRANKLIN STREET
TAMPA, FL 33602

INTERNATIONAL ALLIANCE OF
THEATRICAL STAGE EMPLOYEES,
LOCAL 15
2800 1ST AVE STE 231
SEATTLE, WA 98121-1119

EXHIBIT C

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

**AUDIO VISUAL SERVICES GROUP, INC., D/B/A
PSAV PRESENTATION SERVICES**

and

Case 19-CA-167454

**INTERNATIONAL ALLIANCE OF THEATRICAL
STAGE EMPLOYEES, LOCAL 15**

ANSWER

COMES NOW Respondent Audio Visual Services Group, Inc. d/b/a PSAV Presentation Services (“PSAV” or “Respondent”), by and through the undersigned attorneys, and by way of an Answer to the Complaint issued in Case 19-CA-167454 admit or deny as follows:

1. Respondent admits the allegations contained in paragraph 1.
2. (a) Respondent admits to the allegations contained in paragraph 2(a).
(b) Respondent admits to the allegations contained in paragraph 2(b).
(c) Respondent admits to the allegations contained in paragraph 2(c).
(d) Respondent admits to the allegations contained in paragraph 2(d).
3. The Respondent lacks sufficient knowledge to admit or deny the allegations contained in paragraph 3 and accordingly denies the same.
4. Respondent admits that it retains counsel for legal services. The allegations contained in paragraph 4 are vague and Respondent lacks sufficient knowledge to admit or deny the allegations and accordingly denies the same.

5. (a) Respondent admits that the positions identified in paragraph 5(a) have been recognized by the Board to constitute an appropriate bargaining unit for the locations identified therein. Respondent denies the remaining allegations contained in paragraph 5(a).

(b) Respondent admits that on December 18, 2015, Region 19 Regional Director Ronald K. Hooks issued his Decision on Challenges and Objection and Certification of Representative certifying the International Alliance of Theatrical Stage Employees, Local 15 (“Local 15”) as the exclusive collective bargaining representative to the employees in the bargaining unit identified in paragraph 5(a). Additionally, the Regional Director’s decision advised of both parties ability to seek Board review of his decision as well as the prior decision to direct an election. The decision identified that requests for review were required to be received by the Board by January 4, 2016. If no requests for review were filed by that date the Regional Director’s decision would become final. Respondent denies the remaining allegations contained in paragraph 5(b).

(c) Respondent admits that following a timely request for review being submitted to the Board, on May 19, 2016, the Board issued its decision denying the Respondent’s request for review of the Regional Director’s decision.

(d) Paragraph 5(d) comprises a legal opinion that does not require a response. To the extent that a response is required, Respondent denies the allegations contained in paragraph 5(d).

6. (a) Respondent admits that on or around January 4, 2016, the International Alliance of Theatrical Stage Employees, Local 15 (“Local 15”) submitted an email to Respondent requesting the initiation of bargaining. Respondent further admits that on January 4, 2016, it

served Local 15 with a copy of its request for review of the Regional Director's decision. Respondent denies the remaining allegations contained in paragraph 6(a).

(b) Respondent admits that following the Board's decision denying Respondent's request for review of the Regional Director's decision that, on or around May 23, 2016, Local 15 submitted an email to Respondent requesting the initiation of bargaining. In response to Local 15's email, Respondent agreed to begin negotiations and suggested potential dates for future negotiations. Respondent denies the remaining allegations contained in paragraph 6(b).

(c) Respondent denies the allegations contained in paragraph 6(c).

7. Paragraph 7 comprises a legal opinion that does not require a response. To the extent that a response is required, Respondent denies the allegations contained in paragraph 7.

8. Paragraph 8 comprises a legal opinion that does not require a response. To the extent that a response is required, Respondent denies the allegations contained in paragraph 8.

AFFIRMATIVE DEFENSES

First Affirmative Defense – Section 10(b) Statute of Limitations

The claims asserted in the Complaint are barred in whole, or in part, by the applicable statute of limitations.

Second Affirmative Defense –

Inadequate Investigation/Compliance with Casehandling Manual

The Complaint is barred as it is the result of an investigation that failed to comply with the NLRB Casehandling Manual.

WHEREFORE the Respondent prays for the following relief:

1. For dismissal of the Complaint with prejudice, or for a Judgment in favor of the Respondent whereby all relief sought in the Complaint is denied;
2. For an award of attorney fees and costs incurred in the defense of this action;
3. For any other relief that may be just and proper.

July 6, 2016

Respectfully submitted,

/s/ David Shankman
David Shankman
Michael Willats
SHANKMAN LEONE, P.A.
707 N. Franklin Street
5th Floor
Tampa, FL 33602
Phone: (813) 223-1099
Fax: (813) 223-1055

Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2016, a true and correct copy of the foregoing Answer and Affirmative Defenses was filed electronically through the NLRB E-File Portal on the following:

Ronald K. Hooks
Regional Director, Region 19
NLRB Regional Office
915 2nd Ave Ste 2948
Seattle, WA 98714-1006

Katelyn Sypher, Esq.
Schwerin Campbell Barnard
Iglitzin & Lavitt LLP
18 West Mercer Street Suite 400
Seattle, WA 98119
Attorney for Local 15

/s/ Michael Willats
Michael Willats

EXHIBIT D

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RC PETITION

DO NOT WRITE IN THIS SPACE	
Case No. 19-RC-161471	Date Filed October 6, 2015

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlr.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. **The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.**

2a. Name of Employer PSAV Presentation Services	2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code) 3315 S. 116th Street, Tukwila, WA 98168
---	---

3a. Employer Representative - Name and Title Jaymes Toycen, Regional Vice President	3b. Address (If same as 2b - state same) 26020 201st Place SE, Covington, WA 98042
---	--

3c. Tel. No. 253-631-8484	3d. Cell No.	3e. Fax No. 206-652-4766	3f. E-Mail Address jtoycen@psav.com
-------------------------------------	---------------------	------------------------------------	---

4a. Type of Establishment (Factory, mine, wholesaler, etc.) Service Provider	4b. Principal product or service Event Presentation Services	5a. City and State where unit is located: Seattle, Bellevue, Tukwila, & Tacoma, WA
--	--	--

5b. Description of Unit Involved Included: All Technicians, including Entry-Level Technicians, Senior Technicians, Lead Technicians, Driver Technicians, Concierges, and Warehouse Technicians Excluded: Project Managers, Riggers	6a. No. of Employees in Unit: 65	6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
---	--	---

Check One: 7a. Request for recognition as Bargaining Representative was made on (Date) _____ and Employer declined recognition on or about _____ (Date) (If no reply received, so state).
 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent (If none, so state).	8b. Address
--	--------------------

8c. Tel No.	8d Cell No.	8e. Fax No.	8f. E-Mail Address
--------------------	--------------------	--------------------	---------------------------

8g. Affiliation, if any	8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)
--------------------------------	---	--

9. Is there now a strike or picketing at the Employer's establishment(s) involved? No If so, approximately how many employees are participating? _____
(Name of labor organization) _____, has picketed the Employer since (Month, Day, Year) _____.

10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)
N/A

10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.
		10e. Fax No.	10f. E-Mail Address

11. **Election Details:** If the NLRB conducts an election in this matter, state your position with respect to any such election.

11a. Election Type: Manual Mail Mixed Manual/Mail

11b. Election Date(s): 10/27/15 - 11/17/15	11c. Election Time(s): N/A	11d. Election Location(s): N/A
--	--------------------------------------	--

12a. Full Name of Petitioner (including local name and number) International Alliance of Theatrical Stage Employees, Local 15	12b. Address (street and number, city, state, and ZIP code) 2800 1st Avenue, Suite 231, Seattle, WA 98121
---	---

12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)
International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the U.S., its Territories, and Canada

12d. Tel No. 206-441-1515	12e. Cell No.	12f. Fax No. 206-448-5325	12g. E-Mail Address businessagent@ia15.org
-------------------------------------	----------------------	-------------------------------------	--

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title Dmitri Iglitzin, Attorney	13b. Address (street and number, city, state, and ZIP code) 18W. Mercer Street, Suite 400, Seattle, WA 98102
---	--

13c. Tel No. 206-257-6003	13d. Cell No.	13e. Fax No. 206-257-6036	13f. E-Mail Address iglitzin@workerlaw.com
-------------------------------------	----------------------	-------------------------------------	--

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print) Dmitri Iglitzin	Signature 	Title Attorney	Date 10/06/15
--	---	--------------------------	-------------------------

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

EXHIBIT E

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

**AUDIO VISUAL SERVICES GROUP, INC. D/B/A
PSAV PRESENTATION SERVICES**

Employer

And

Case 19-RC-161471

**INTERNATIONAL ALLIANCE OF THEATRICAL
STAGE EMPLOYEES, LOCAL 15**

Petitioner

DECISION AND DIRECTION OF ELECTION

Petitioner seeks to represent a unit of all full-time and regular part-time technicians, including entry-level technicians, senior technicians, lead technicians, driver technicians, concierges, equipment repair QC specialists, technical specialists, and warehouse technicians employed by the Employer at its facilities in Seattle, Sea-Tac, Bellevue, Tukwila, and Tacoma, Washington.

A hearing officer of the Board held a hearing in this matter. The parties reached a stipulation on all substantive matters before me, including the appropriateness of the petitioned-for Unit. The only contested matter, and the only issue the parties addressed on the record at hearing, concerns the logistics of holding the petitioned-for election, which is a non-litigable issue. On the one hand, the Employer argues in favor of a manual election; on the other hand, Petitioner argues that a mail ballot election is appropriate. As explained below, I will direct a mail ballot election because employees in the petitioned-for Unit are geographically scattered and because conducting a manual election would not be an efficient use of the Board's financial resources.

THE EMPLOYER'S OPERATION¹

The Employer is an in-house provider of meeting services that caters to the audio-visual needs of hotel guests and convention-goers at about 20 hotels in the greater Seattle area. The Employer sets up audio-visual services and takes down the equipment that needs to be presented to accommodate guests at hotels where there are meetings.

The approximately 95 employees in the petitioned-for Unit are assigned to a particular hotel or convention center and based out of Seattle, Sea-Tac, Bellevue, Tukwila, and Tacoma, Washington. About half of the approximately 95 employees are based out of Seattle, about 14

¹ Election mechanics are a non-litigable issue on which the parties were not allowed to present evidence. Given that the parties reached stipulations on all other issues, the record does not contain any evidence regarding the employees' work schedules, locations, or other issues. Rather, all information is based on arguments made by parties' counsel at hearing.

employees are based out of Bellevue, about six employees are based out of Sea-Tac, and about one or two employees are based out of Tacoma. Generally, it appears that employees are dispersed to work locations near their base. However, employees in the petitioned-for Unit travel regularly to other work locations, as needed by the Employer.

The majority of employees in the petitioned-for Unit work full time, with about twenty-five percent or less of the employees working part time. Both parties raise arguments about the possible impact of the part-time workforce on the election. The Employer contends that the timeframe in which the election will be held is the Employer's busy season. As a result, per the Employer, its part-time workforce will be regularly working over 30 hours per week and will not hold other employment during that time. Conversely, the Union contends that part-time employees regularly seek other work and thus may be required to turn down other work opportunities on the date of any manual election.

CONCLUSION

Based upon the entire record in this matter, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.²
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time technicians, including entry-level technicians, senior technicians, lead technicians, driver technicians, concierges, equipment repair QC specialists, technical specialists, and warehouse technicians employed by the Employer at its Seattle, Sea-Tac, Bellevue, Tukwila, and Tacoma, Washington facilities, excluding project managers, riggers, union-referred employees subject to the

² The Employer, a State of Delaware corporation, with offices and places of business in Seattle, Sea-Tac, Bellevue, Tukwila, and Tacoma, Washington, is engaged in the business of providing event technology services. Within the past twelve months, a representative period, the Employer received gross revenue in excess of \$500,000 and purchased and received at its facilities located within the State of Washington goods valued in excess of \$50,000 directly from points outside the State of Washington.

Union's national agreement with the Employer, and guards and supervisors as defined by the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Alliance of Theatrical Stage Employees, Local 15.

A. Election Details

I have determined that a mail ballot election will be held. While the Board's longstanding policy is that representation elections should be conducted manually, the Board has recognized "that there are instances where circumstances tend to make it difficult for eligible employees to vote in a manual election or where a manual election, though possible, is impractical or not easily done." *National Labor Relations Board Casehandling Manual Part Two Representation Proceedings*, §11301.2. In such circumstances, the Regional Director, in his discretion, "may reasonably conclude that conducting the election by mail [. . .] would enhance the opportunity for all to vote." *Id.* Board policy states that the following situations normally suggest the propriety of using mail ballots: "(a) where eligible voters are 'scattered' because of their job duties over a wide geographic area; (b) where eligible voters are 'scattered' in the sense that their work schedules vary significantly, so that they are not present in a common location at common times." *Id.* In addition to scattering, the Regional Director "should also consider the efficient use of the Agency's financial resources, because their efficient and economic use is a reasonable concern." *Id.*

The Board has long held that Regional Directors act within their discretion and in accordance with the Casehandling Manual when they choose to direct mail ballot elections due to physical scattering of employees and conservation of Agency resources. *See, e.g., Masiogale Electrical-Mechanical, Inc.*, 326 NLRB 493 (1998) (upholding Regional Director's decision to utilize mail ballot election where employees scatter among eight jobsites in three cities and none of the jobsites were owned by the employer); *San Diego Gas and Elec.*, 325 NLRB 1143 (1998) (finding that Regional Director should take employee scattering into account for deciding appropriateness of mail ballot elections).

Here, employees in the petitioned-for Unit are sufficiently scattered to warrant use of a mail-ballot election. Employees not only work in five different cities in the Puget Sound area, but also work at various worksites within each city. Moreover, these worksites are not owned by the Employer, which would require the Agency to procure space to conduct elections at the election sites proposed by the Employer. In light of the dispersed geographic locations of employees' worksites and the significant expense to the Agency to conduct a manual election, I find that a mail-ballot election is appropriate in this case.

The ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 4:45 p.m. on Monday, November 9, 2015, ballots will be mailed to voters from the National Labor Relations Board, Region 19, 915 Second Ave., Room 2948, Seattle, Washington 98174. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by November 16, 2015 should communicate immediately with the National Labor Relations Board by either calling the Region 19 Office at (206) 220-6300 or our national toll-free line at 1-866-667-NLRB (1-866-667-6572).

All ballots will be commingled and counted at the Regional office on Monday, November 30, 2015 at 2:00 p.m. In order to be valid and counted, the returned ballots must be received in the Regional office, prior to the counting of the ballots.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **October 9, 2015** including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible to vote are all employees in the unit who have worked an average of four (4) hours or more per week during the 13 weeks immediately preceding the eligibility date for the election.

Employees engaged in an economic strike who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they request a ballot from the Regional Office and return it prior to the counting of the ballots.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(1) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Tuesday, October 27, 2015**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Seattle, Washington, on the 23rd day of October, 2015.



RONALD K. HOOKS
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 19
915 2nd Ave Ste 2948
Seattle, WA 98174-1006

EXHIBIT F

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

Date Filed

Case No. 19-RC-161471

10/6/15

Date Issued November 30, 2015

City Seattle

State WA

Type of Election:
(Check one:)

(If applicable check either or both:)

Stipulation

8(b) (7)

Board Direction

Mail Ballot

Consent Agreement

RD Direction
Incumbent Union (Code)

AUDIO VISUAL SERVICES GROUP, INC.
d/b/a PSAV PRESENTATION SERVICES

Employer

and

INTERNATIONAL ALLIANCE OF THEATRICAL
STAGE EMPLOYEES, LOCAL 15

Petitioner

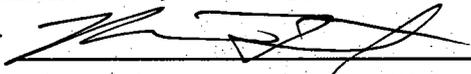
TALLY OF BALLOTS

The undersigned agent of the Regional Director certifies that the results of tabulation of ballots case in the election held in the above case, and concluded on the date indicated above, were as follows:

- 1. Approximate number of eligible voters 93
- 2. Number of Void ballots 0
- 3. Number of Votes cast for PETITIONER 36
- 4. Number of Votes cast for _____
- 5. Number of Votes cast for _____
- 6. Number of Votes cast against participating labor organization(s) 33
- 7. Number of Valid votes counted (sum 3, 4, 5, and 6) 69
- 8. Number of challenged ballots 5
- 9. Number of Valid votes counted plus challenged ballots (sum of 7 and 8) 74
- 10. Challenges are ~~not~~ sufficient in number to affect the results of the election.
- 11. A majority of the valid votes counted plus challenged ballots (item 9) has ~~not~~ been cast for _____

INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, LOCAL 15

For the Regional Director
Region 19

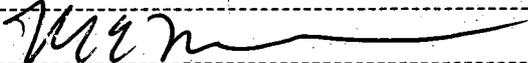


The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For EMPLOYER



For PETITIONER



For _____

EXHIBIT G

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

**AUDIO VISUAL SERVICES GROUP, INC. d/b/a
PSAV PRESENTATION SERVICES**

Employer

and

Case 19-RC-161471

**INTERNATIONAL ALLIANCE OF THEATRICAL
STAGE EMPLOYEES, LOCAL 15**

Petitioner

**DECISION ON CHALLENGES AND OBJECTION
AND CERTIFICATION OF REPRESENTATIVE**

On October 23, 2015, I issued a Decision and Direction of Election in this matter.¹ Pursuant to that Decision and Direction of Election, an election by secret mail ballot was conducted from November 9, 2015 until November 30, 2015, when the ballots were counted. The employees who were eligible to vote in the election included:

All full-time and regular part-time technicians, including entry-level technicians, senior technicians, lead technicians, driver technicians, concierges, equipment repair QC specialist, technical specialists, and warehouse technicians employed by the Employer at its Seattle, Sea-Tac, Bellevue, Tukwila, and Tacoma, Washington facilities.

¹ The sole issue for the hearing was whether the election should be conducted manually or by mail. As explained in the Decision and Direction of Election, the Regional Director has complete discretion to determine whether an election should be conducted manually or by mail ballot. See *Nouveau Elevator Industries*, 326 NLRB 470, 471 (1998) (Regional Director has broad discretion in determining the method by which an election is conducted). In prefacing its objection, the Employer continues to contend, without a specific objection on this issue, that the election should have been conducted manually. The Employer states in its submission that it reserves its argument in regard to the method of voting in the event it should decide to request review of the Regional Director's Decision on Challenges and Objection and Certification of Representative.

The Tally of Ballots was made available to the parties pursuant to the Board's Rules and Regulations and showed the following results:

Approximate number of eligible voters	93
Void ballots ²	0
Votes cast for Petitioner	36
Votes cast against participating labor organization.....	33
Valid votes counted	69
Challenged ballots	5
Valid votes counted plus challenged ballots	74

The challenges were sufficient in number to affect the results of the election. As described in more depth below, three of these challenges were “not on list” challenges by the Board Agent and the remaining two challenges were made by the Employer contending that the voters did not share a community of interest with the bargaining unit.

On December 7, 2015, the Employer filed a timely objection to conduct affecting the results of the election and a request for an extension of time in which to file its formal submission of evidence in support of the objection. I granted the Employer an extension of time to December 11, 2015 to submit its offer of proof. On December 11, 2015, the Employer filed its Offer of Proof in Support of its objection (“Offer of Proof”).

Pursuant to § 102.69 of the Board’s Rules and Regulations, Series 8, as amended, the undersigned Regional Director caused an investigation to be made of the challenged ballots and the Employer's objection, during which the parties were afforded

² As discussed below, the Regional Office received the unsigned ballot of Perry Bryce on November 17, 2015. Pursuant to CHM § 11336.5(c) an unsigned ballot is void and cannot be counted. Therefore, the Regional Office mailed a duplicate voter kit to Bryce on that same day. However, as the Region did not receive a signed ballot from Bryce by the time of the count, his previously received unsigned ballot should have been marked void on the tally of ballots (See CHM § 11336.5(c)).

full opportunity to submit evidence bearing on the issues. As set forth below, I find that the not on list challenges should be sustained, and I approve the Employer's withdrawal of its challenge to two ballots. Additionally, I conclude that the objection does not warrant setting aside the election as discussed below. Therefore, as there are no remaining issues, I am issuing a Certification of Representative.

CHALLENGES

The ballots of Ms Emenke, John Kenan, and Cerek Creisler were challenged by the Board Agent on the grounds their names did not appear on the voter list ("not on list"). The ballots of Kyle Shoji and Karl S. Johnson were challenged by the Employer on the grounds that they were not eligible to vote because they do not share a community of interest with the bargaining unit.

Neither party presented argument or an offer of proof concerning the eligibility of the three not on list challenges. Therefore, I sustain the not on list challenges and these ballots will not be opened and counted. After the issuance of the Tally of Ballots, the Employer withdrew its challenge to the ballots of Shoji and Johnson, I approve the Employer's withdrawal. As these two ballots are not determinative to the outcome of the election, the ballots will not be opened and counted.

A revised Tally of Ballots will not be issued as the tally of votes counted remain unchanged. As reflected, a majority of valid votes counted were cast in favor of the Union.

OBJECTION

In its objection, the Employer contends eight (8) eligible voters, specifically named in its objection, were disenfranchised by virtue of casting ballots that were not

counted and/or not being provided ballots in time to be counted and/or were not provided ballots upon request, and that all such ballots are determinative of the outcome of the election. In its Offer of Proof, the Employer goes on to allege that the disenfranchisement was a “result of flaws and irregularities in the Board’s mail ballot procedure”, which, according to the Employer, “did not afford the eligible voters an adequate notice and opportunity to vote.” The Employer, in its Offer of Proof, addressed the specific circumstances surrounding four of the voters it named in its objection, did not address the other four, and proffered the names of three additional eligible voters whose ballots were not counted. The central thrust of the Employer’s objection, and the point on which all of the eligible voters listed and detailed in its Offer of Proof would provide testimony, concerns the circumstances surrounding the mailing and delivery of ballots. Specifically, the Employer contends the employees will testify that either a) they properly deposited a ballot in a mail box in sufficient time for the ballot to arrive in the Regional Office to be counted in the election but the ballot was either not received or received after the count, or b) they received their ballot too late to be able to return it in a timely manner or c) they did not receive a ballot. The Employer contends the election should be set aside and a new election should be conducted. I disagree.

The Investigation.

The investigation revealed that all voter kits, which include voting instructions, a ballot, and inner and outer envelopes, were sent out from the Regional Office on November 9, 2015, to the addresses listed on the voter eligibility list provided by the Employer. Of the individuals named in the Employer’s objection and its Offer of Proof (a total of 11 individuals), two ballots cast by Mosier and Greenland, and timely received in

the Regional Office were opened and counted on November 30 and included in the Tally of Ballots. A third voter, Bryce Perry, returned an unsigned ballot which was received by this office on November 17. As unsigned ballots are considered to be void and not to be counted, the Region mailed Perry a duplicate voter kit that same day. The Region received Perry's duplicate ballot on December 11 after the Tally of Ballots issued. The fourth voter, Carlos Delgado, mailed an unsigned ballot, postmarked on November 28 and received by the Region on December 2 after the Tally of Ballots issued. With respect to Kevin Millen, the Employer contends Millen received the ballot at his old address, on November 27 but it was too late to cast a ballot. To date, the Region has not received a ballot from Millen. With respect to the sixth voter, Shawn Carter, his voter kit was returned to this office on November 19, as undeliverable. That same day, the Region acquired a new address from the Employer, and mailed Carter a duplicate ballot. To date, the Region has not received a ballot. With respect to the seventh voter Elicia Greene, to date the Region has not received a returned voter kit or a ballot. With respect to the eighth voter, Darren Brandenburg, the investigation revealed that the Employer contacted the Region to request a duplicate ballot, was informed that the voter needed to make such request, but Brandenburg did not call the Region so no duplicate ballot was mailed. On December 4 the Region received Brandenburg's voter kit as undeliverable.

With respect to the additional three individuals named in the Employer's offer of proof, the investigation revealed that on December 2 the Region received one ballot postmarked November 30. As it was received after the issuance of the Tally of Ballots,

this ballot was not opened or counted. To date, the Region has not received the other two ballots, nor have their voter kits been returned as undeliverable.

Discussion

The Board has recently addressed similar concerns associated with mail delivery and timely receipt of ballots in a regional office. In *Classic Valet Parking*, 363 NLRB No. 23 (October 23, 2015), 10 ballots were excluded because they were not received in Regional Office 29 prior to the completion of the Tally of Ballots.³ There, as in the instant case, the employer contended that these 10 ballots, postmarked prior to but arriving after the Tally of Ballots, should be counted. The *Classic* Board rejected the employer's contention. Although addressing the concerns of possible disenfranchisement of eligible voters as a result of vagaries of postal service mail delivery, the Board opted to maintain the substantial policy considerations favoring the finality of election results. Citing *Versail Mfg., Inc.*, 212 NLRB 592, 593 (1974), the Board pointed out that without adhering to this policy of finality, election results could be delayed for significant periods of time as mail-in ballots slowly come into regional offices. *Id.* at 1

The reasoning presented in both *Classic* and *Versail* is persuasive, on point, and directly applicable to the facts of the instant case. It is quite evident that the situation that caused the Board concern in those cases is also present in the instant case as ballots were received days after the Tally of Ballots, one arriving 11 days late. The Employer here contends that these ballots should be counted. However, the Employer cites no cases which directly support this contention. *Kerrville Bus Co.*, 257 NLRB 176

³ In *Classic Valet*, the voters were provided with a total of 14 days to return the mail-in ballots. In the instant case 21 days was the turn-around time.

(1981), which the Employer cites, undermines its argument as its implicit holding is that to be counted, a ballot must arrive in the Regional Office prior to the completion of the Tally of Ballots. In that case, a mixed manual/mail-in election, the mail-in ballots were to be received by the Regional Office by December 15 and the manual ballots were to be cast on December 17. Two days later, on December 19, the ballots were comingled and counted. All of the seven challenged mail-in ballots arrived in the Regional Office after the December 15 cut-off date but either before or on the December 17 manual voting date, and prior to the December 19 vote count. The *Kerrville* Board, after reviewing the facts, accepted the Hearing Officer's recommendation, overruled the challenges and directed that the challenged ballots be counted. The Board found it significant that the mail-in ballots, although technically late, were received by the date for the manual balloting and prior to the issuance of the Tally of Ballots. Therefore, for a vote to be counted in a mail-in election it must arrive in the Regional Office prior to the tally of ballots.⁴ See also *Watkins Construction Co.*, 332 NLRB 828, 828 (2000) (late ballot should be counted if it is received before the count begins) In the final analysis, the Board's "in before the Tally" rule establishes a clear, bright line for counting mail-in ballots as it is easily discernible by voters, Board Agents, Petitioners, and Employers alike.

Applying the holding in *Kerrville* to the instant case, as suggested by the Employer, it is clear that all ballots must arrive in the Regional Office prior to the Tally of Ballots to be counted in the election. I therefore recommend that any part of the Employer's objection based on not counting late arriving ballots be overruled.

⁴ Each eligible voter received three notices of the date, time, and place for their ballot to be received in the Regional Office. Two in the election kit (form letter and voting instruction form) and one in the Notice to Employees required to be conspicuously posted by the Employer in the workplace.

In regard to the Employer's allegation that ballots were not provided upon request, the investigation revealed that the Regional Office received only one request for a duplicate election kit. However, this request came from the Employer who was informed to have the voter call the Regional Office directly. The Employer does not contend, nor is there record the voter requested a duplicate voter kit. As there is no evidence to support the Employer's contention that certain voters were disenfranchised as a result of the Regional Office not providing duplicate voter kits upon request, I recommend that this portion of the Employer's Objection be overruled.

Finally, the Employer's objection implies that it is the postmark on the ballot envelope and not the time stamp affixed by the Regional Office that should control when a ballot is cast and such ballot is therefore eligible to be included in the ballot count. The Employer argues that since the Region counted only those ballots actually received prior to the Tally, the election should be set aside. In regard to this allegation, the Board has found that the failure of the Postal Service to deliver mail ballots does not necessitate setting aside an election. See *J. Ray McDermott & Co. v. NLRB*, 571 F.2d 850, 855 (1978)("It cannot be said that an election by mail is per se invalid whenever a potentially decisive number of votes, no matter how small, is lost through the vagaries of mail delivery."). As discussed above, to be counted, ballots must be received by the Regional Office before the Tally to be counted.

CONCLUSION

Based upon the above noted precedent as applied to the facts revealed by the investigation, the challenges are sustained and the Employer's objection is overruled in its entirety.

CERTIFICATION OF REPRESENTATIVE

It is certified that a majority of the valid ballots have been cast for INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, LOCAL 15, and that it is the exclusive collective bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time technicians, including entry-level technicians, senior technicians, lead technicians, driver technicians, concierges, equipment repair QC specialists, technical specialists, and warehouse technicians employed by the Employer at its Seattle, Sea-Tac, Bellevue, Tukwila, and Tacoma, Washington facilities, excluding project managers, riggers, union-referred employees subject to the to the Union's national agreement with the Employer, and guards and supervisors as defined by the Act.

REQUEST FOR REVIEW

Pursuant to the provisions of Sections 102.69(c)(2) of the Board's Rules and Regulations, any party may file with the Board in Washington DC, a request for review of this decision which may be combined with a request for review of the regional director's decision to direct an election as provided in Sections 102.67(c) and 102.69 (c)(2), if not previously filed. The request for review must conform to the requirements of Sections 102.67 (e) and (i)(1) of the Board's Rules and must be received by the Board in Washington by January 4, 2016 If no request for review is filed, the decision is final and shall have the same effect as if issued by the Board.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select the E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the Request for Review should be addressed to the Executive Secretary, National Labor Relations Board 1015 Half Street, S.E., Washington DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties

and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

DATED at Seattle, Washington on December 18, 2015.

A handwritten signature in black ink that reads "Ronald K. Hooks". The signature is written in a cursive style with a horizontal line underneath it.

Ronald K. Hooks
Regional Director, Region 19
National Labor Relations Board
2948 Jackson Federal Building
915 Second Avenue
Seattle, Washington 98174

EXHIBIT H

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

PSAV PRESENTATION SERVICES

Employer,

and

INTERNATIONAL ALLIANCE OF
THEATRICAL STAGE EMPLOYEES
(IATSE), LOCAL 15

Petitioner.

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Case No. 19-RC-161471

**EMPLOYER'S CONSOLIDATED REQUEST FOR REVIEW OF
THE REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION
AND THE REGIONAL DIRECTOR'S DECISION ON CHALLENGES AND
OBJECTION AND CERTIFICATION OF REPRESENTATIVE
AND BRIEF IN SUPPORT**

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1. INTRODUCTION

Pursuant to sections 102.67(c) and (i)(1), and 102.69(c) of the National Labor Relations Board's Rules and Regulations, PSAV Presentation Services ("PSAV" or the "Employer"), through its undersigned counsel, submits this request for review of the Regional Director's *Decision and Direction of Election* issued October 23, 2015, and its request for review of the Regional Director's *Decision on Challenges and Objection and Certification of Representative* issued December 18, 2015.

Respondent consolidates its request for review of the Decision and Direction of Election directing a mail ballot election with Respondent's objections to conduct affecting that election, because the two are sufficiently intertwined: A determinative number of voters in this case cast ballots that were not counted because PSAV's request for a mail ballot election was improperly denied and because of the flaws in the mail ballot procedures applied to this election process.

2. BACKGROUND

2.1 The Representation Hearing

There was not a stipulated election agreement in this case; the Regional Director directed a mail ballot election over PSAV's objection. The sole issue argued at the representation hearing conducted on October 16, 2015 was whether the election should be conducted manually, or by mail ballot. (DDE at 1). The Employer requested an in-person election. It offered four private conference room locations at its worksites or within walking distance of its worksites in the greater Seattle area where elections could be conducted on two consecutive dates. PSAV explained that the election would be held during the Employer's busy season and, as a result, its part-time workforce would be regularly working more than 30 hours per week and would not likely hold other employment during that time. (DDE at 2). Moreover, PSAV specifically

confirmed it would pay all voting employees for the workday on the dates of the in-person election.

Notwithstanding the above, the Union pushed for a mail ballot election. In support of its position, the Union argued only that 25% of the Employer's workforce was part-time and that these employees may seek other work and therefore may be required to turn down other work opportunities on the date of any manual election. (DDE at 2). No evidence or detail was offered to support this contention, nor was any argument presented to reject PSAV's contention above that all of the employees would be employed for the week of the election.

2.2 The Regional Director's Decision and Direction of Election

On October 23, 2015, the Regional Director issued a *Decision and Direction of Election*, directing an election entirely by mail ballot. The Director said that the employees in the petitioned-for Unit were sufficiently scattered to warrant use of a mail ballot election because they work in five different cities in the Puget Sound area, work at various worksites within each city, and the worksites are not owned by the employer (which would require the Agency to procure space to conduct elections at the election sites proposed by the Employer). (DDE at 3). The Director concluded a mail ballot election was appropriate due to the "dispersed geographic locations of the employees' worksites and the significant expense to the Agency to conduct a manual election[.]" (DDE at 3).

2.3 The Election

PSAV was told that at 4:45 p.m. on November 9, 2015, ballots were mailed from the NLRB regional office located at 915 2nd Avenue, Room 2948, Seattle, Washington 98174. There was no deadline to mail the ballots back to the Region. Instead, eligible voters were told

only that the ballots must be mailed in time for them to be received on Monday, November 30, 2015 (the Monday after the Thanksgiving holiday):

All ballots will be commingled and counted at the Regional office on Monday, November 30, 2015 at 2:00 p.m. In order to be valid and counted, the returned ballots must be received in the Regional office, prior to the counting of the ballots.

(DDE at 4). The Tally of Ballots showed the following results:

Approximate number of eligible voters	93
Void ballots.....	0
Votes cast for Petitioner.....	36
Votes cast against participating labor organization	33
Valid Votes counted.....	69
Challenged ballots.....	5
Valid Votes counted plus challenged ballots	74

2.4 The Objections

Respondent timely objected to conduct affecting the results of the election on December 7, 2015. The Regional Director advised that on or before December 11, 2015, Respondent was required to present its proffer of the evidence that supported its request to set aside the election. Respondent timely filed its proffer which provided the following evidence Respondent was prepared to present at hearing.

2.4.1 Eligible Voters Did Not Timely Receive a Mail Ballot

Lead Technician Kevin Millen

Eligible voter Kevin Millen changed residences during the election period, but returned periodically to check his old mailbox to see if a ballot had arrived. However, Mr. Millen did not receive the ballot at his old address until November 27, 2015, at which point it was too late to

cast his vote and mail the ballot back to the NLRB in time to be counted. In his decision, the Regional Director did not address Mr. Millen specifically, but took the position that the “disenfranchisement of eligible voters as a result of vagaries of postal service mail” does not necessitate overturning an election, and that there are substantial policy considerations favoring the finality of election results.

Technician Darren Brandenburg

On November 20, 2015, the Employer notified the Region that eligible voter Darren Brandenburg did not receive a ballot. The Region told the Employer that Mr. Brandenburg needed to contact the Region directly in order to obtain a new ballot. On December 4, 2015, Mr. Brandenburg’s voter kit was returned as undeliverable.

Lead Technician Shawn Carter

Eligible voter Shawn Carter’s voter kit was returned to the NLRB as undeliverable on November 19, 2015. The Region asked the parties for an alternative address for Mr. Carter and sent him a duplicate voter kit that day.

2.4.2 Eligible Voters Returned Mail Ballots That Were Not Counted Because The Exterior Envelope Was not Signed

Senior Technician Bryce Perry

Eligible voter Bryce Perry completed his ballot and mailed it to the Region by depositing it in the outgoing mailbox at the United States Post Office. It was received by the Region on November 17, 2015, but Mr. Perry neglected to sign his envelope. A duplicate voter kit was mailed to Mr. Perry that same day. Mr. Perry received the duplicate voter kit on or around December 8, 2015. The duplicate voter kit was inside a box of mail that was left, by an unknown individual, in Mr. Perry’s carport. He only discovered the box of mail upon returning from vacation after the Thanksgiving holiday. Confused as to why he had received a second ballot and

in a different, “more official looking” envelope, Mr. Perry completed and mailed the second ballot as well. The region received Mr. Perry’s duplicate ballot on December 11, 2015. Neither of Mr. Perry’s votes were counted.

Senior Technician Carlos Delgado

Eligible voter Carlos Delgado completed his ballot and mailed the ballot to the NLRB on November 26 or 27, 2015, by depositing it in the outgoing mailbox at the United States Post Office in Miami, Florida. The Region received Mr. Delgado’s voter kit on December 2, 2015. It was postmarked November 28, 2015. Mr. Delgado neglected to sign his envelope. Mr. Delgado’s vote was not counted.

2.4.3 Eligible Voters Returned Mail Ballots That Were Not Counted Because They Were Deemed Untimely

Senior Technician Bryce Perry

Mr. Perry cast two ballots in this election. His first ballot was not counted because he did not sign the envelope. His duplicate ballot was not counted because it was received after the tally of ballots. Mr. Perry did not receive his duplicate voter kit until after the tally of ballots had been completed.

Senior Technician Carlos Delgado

In addition to Mr. Delgado’s vote not counting because he did not sign his envelope, his ballot also did not arrive at the regional office prior to the tally of ballots, despite having been mailed more than three days prior. His second ballot was therefore not counted.

2.4.4 One Eligible Voter Returned a Mail Ballot That Was Not Counted Because it Was Not Received by the Region

Technician Eleicia Greene

Eligible voter Eleicia Greene completed her ballot according to the instructions and mailed the ballot to the NLRB. The Region maintains it never received Ms. Greene's ballot and, therefore, her vote was not counted.

2.4.5 Eligible Voters Returned Mail Ballots That Were Not Counted for Unknown Reasons¹

Lead Technician Drew Annen

Eligible voter Drew Annen completed his ballot according to the instructions and mailed the ballot to the NLRB on November 27, 2015, by depositing it in the outgoing mailbox at the United States Post Office in Everett, Washington. Respondent does not know why Mr. Annen's vote was not counted.

Lead Technician Ritchie Garcia

Eligible voter Ritchie Garcia completed his ballot according to the instructions and mailed the ballot to the NLRB from his home on November 23, 2015, before he left for the Thanksgiving holiday. Mr. Garcia included his return address on the envelope, and did not receive it back. Respondent does not know why Mr. Garcia's vote was not counted.

Technician Anthony Elliott

Eligible voter Anthony Elliott completed his ballot according to the instructions and mailed the ballot to the NLRB on or around November 20, 2015, by depositing it in the outgoing mailbox at his apartment complex. Respondent does not know why Mr. Elliott's vote was not counted.

¹ The Regional Director acknowledges that an additional ballot was received by the Region on December 2, 2015. However, that voter has not been identified by the Regional Director.

Technician Darin Branshaw

Eligible voter Darin Branshaw completed his ballot according to the instructions and mailed the ballot to the NLRB prior to November 30, 2015. Respondent does not know why Mr. Branshaw's vote was not counted.

2.5 The Decision

On December 18, 2015, the Director issued his decision on PSAV's objections overruling PSAV's objections in their entirety. The Regional Director refused to conduct a hearing on the matter.

3. LAW AND ANALYSIS

3.1 Grounds for Review

Section 102.67(d) of the Board's Rules and Regulations provides that review is appropriate

based on any of the following grounds:

- (1) that a substantial question of law or policy is raised because of:
 - (i) the absence of; or
 - (ii) a departure from, officially reported Board precedent.
- (2) That the regional director's decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of a party
- (3) that the conduct of any hearing, or any ruling made in connection with the proceeding has resulted in prejudicial error
- (4) that there are compelling reasons for reconsideration of an important Board rule or policy.

Review of the Regional Director's *Decision and Direction of Election* directing a mail ballot election in this case is appropriate because the Regional Director's finding that there would be a "significant expense to the Agency to conduct a manual election" is clearly erroneous on the record and prejudicially affects the rights of a party. § 102.67(d)(2). That clearly

erroneous finding was bootstrapped to the Regional Director's decision to conduct a mail ballot election, which resulted in prejudicial error, and thus provides additional grounds for review under § 102.67(d)(3). Equally erroneous and prejudicial is the Regional Director's finding that the employees' worksites were sufficiently scattered to make appropriate a mail ballot election.. § 102.67(d)(2).

Review of the Regional Director's *Decision on Challenges and Objection and Certification of Representative* in this case is appropriate because the Regional Director committed prejudicial error in failing to include a grace period between the deadline to return ballots and the tally of ballots, and in refusing to count the votes of individuals who neglected to sign their ballot envelope.

3.2 The Regional Director Abused His Discretion By Directing a Mail Ballot Election

It is settled that “the Board’s historical wisdom of favoring manual elections ... has its roots in the fundamental purpose of the Act—to provide for workplace democracy in which employees can select or reject a union as bargaining representative.” *San Diego Gas & Elec.*, 325 NLRB 1143, 1144 (1998) (Hurtgen, Brame, dissenting). The Region concedes this point (DDE at 3). The preference for in-person elections is to promote the laboratory conditions desired by the NLRA. *See North American Aviation*, 81 NLRB 1046, 1048, n. 9 (1949) (where standards are not adequately maintained, whether through fault of the Board, or others, “the requisite laboratory conditions are not present and the [election] must be conducted over again.”) (quoting *Matter of General Shoe Corporation*, 77 NLRB 124, 127 (1948)). Mail ballot elections, on the other hand, raise serious and legitimate concerns about issues such as voter privacy, coercion, the ability of voters to understand and properly complete the ballot, the absence of any Board agent to answer questions if a voter is confused or uncertain about the process, the

possibility that the voter kit will be inadvertently discarded, issues with the mail system, the decreased participation rates in mail ballot elections, and the destruction of laboratory conditions. *See e.g., Brink's Armored Car*, 278 NLRB 141 (1986) (“The danger that the laboratory conditions surrounding an election may be destroyed are greater in mail balloting situations than in manual elections because of the absence of direct Board supervision over the employees' voting.”).

Mail ballot elections also result in decreased voter turnout. According to the Office of the General Counsel, during the two-year period January 1, 2006 through December 31, 2007, approximately 4,305 elections were conducted. Of those elections, approximately 240 were conducted by mail ballot or were mixed manual/mail ballot elections. There were approximately 280,295 employees eligible to vote in the elections (manual or mail) conducted in the sample two-year period. The voting rate in manual elections alone was 81.57% and in mail or mixed manual/mail, the rate was approximately 65%. Of the 240 mail ballot elections conducted, the Union won a majority in 177 or 73.75% of the total. *See Subject: Report on the Midwinter Meeting of the ABA Practice & Procedure Comm. of the Labor & Employment Law Section*, 2008 WL 2484199, at *8 (Apr. 17, 2008) (same). *See also San Diego Gas & Elec.*, 325 NLRB 1143, 1146 (1998) (“The Board's experience with representation elections has shown that the voter participation rate is generally higher in elections conducted manually than in mail ballot elections.”).

For these reasons, mail ballot elections are limited to rare situations, such as where eligible voters were dispersed across the country, across the world, or out at sea, and only as an undesirable alternative where a manual election was “infeasible”. *See e.g., Nat'l Van Lines*, 120 NLRB 1343, 1344 (1958) (a mail ballot election was conducted where “the eligible voters had

places of employment and residences which were scattered throughout the United States,” and 350 notices of election were posted over a period of 16 days, at various employer locations stretching from New York to California.). Indeed, when NLRB Chairman William Gould suggested in 1994 that mail ballot elections should be used to save costs in sparsely populated areas in the western United States, he was met with strong resistance from employers, unions, and even his own agency. See NLRB, *NLRB Looks at Mail Ballot Elections Where Voters Scattered, Long Distances Involved*, NLRB 94-2000, 1994 WL 399801 (July 29, 1994); Daniel V. Yager, *NLRB Agency in Crisis* (1996). NLRB Region 6 Election Specialist Nina Rzymiski responded in opposition to the expanded use of mail ballots stating in part:

To put ballots into the mail along with junk mail, magazines, flyers, and perhaps to lay out in mail boxes seems to me to dilute the seriousness that our NLRB election process deserves. Receiving a mail ballot kit in the mail, though it does come with an instruction sheet explaining what the voter should do with his ballot, does not seem to me to attract the attention that this procedure should have. If a voter is unsure of something, who are they going to ask? If they are afraid of doing the wrong thing or voting the wrong way, or enclosing the ballot in the return envelope that is filled out incorrectly, they more times than not will procrastinate and find it easier not to vote. Not voting is always a person's right, but not voting out of confusion is more the fault of the mail ballot procedure than that entirely of the voter.

Daniel V. Yager, *NLRB Agency in Crisis*, 46 (1996) (quoting Nina Rzymiski, NLRB Region 6, Election Specialist). The expanded use of mail ballots met further resistance later that year when the Board held that a mail ballot election involving “on-call” workers would be appropriate within the 134-square mile geographic area of the City of Atlanta. *Shepard Convention Serv., Inc.*, 314 NLRB 688 (1994). The D.C. Circuit Court of Appeals reversed on the grounds that the Board failed to provide a compelling reason to overrule the Regional Director’s direction of a manual election. *Shepard Convention Serv., Inc. v. NLRB*, 85 F.3d 671 (D.C. Cir. 1996).

Nevertheless, the Board found by a 2-1 vote in *London's Farm Dairy* that a mail ballot election was appropriate where employees were spread across 4 locations, 225-miles apart. 323 NLRB No. 186 (June 20, 1997) (There the Board also noted that two of the locations were 199 and 130 miles from the NLRB regional office, which it concluded would require the Board agent to stay overnight and that Board agents would have to be paid a *per diem*). A year later, by a 3-2 vote of the full Board in *San Diego Gas*, the Board narrowly found a mail ballot election permissible where the 20-member voting unit worked in 8 locations, 80 miles apart, throughout southwest California. *San Diego Gas & Elec.*, 325 NLRB 1143 (1998).

This shift in Board policy was nearly complete when Chairman Gould sought to cement the expanded use of mail ballot elections by issuing four decisions on his last day in office, reaffirming the abuse of discretion standard under which the Board will review decisions of Regional Directors to conduct mail, manual, or mixed elections. *See M & N Mail Service, Inc.*, 326 NLRB No. 43 (Aug. 27, 1998); *Nouveau Elevator Industries, Inc.*, 326 NLRB No. 49 (Aug. 27, 1998); *North American Plastics Corp.*, 326 NLRB No. 70 (Aug. 27, 1998); and *GPS Terminal Services, Inc.*, 326 NLRB No. 71 (Aug. 27, 1998). As Board Members Hurtgen and Brame acknowledged in their dissent in *San Diego Gas*:

The Board today continues on a path toward greater utilization of mail balloting. This process began in *Shepard Convention Services*, 314 NLRB 688 (1994). Although the Board's direction of a mail ballot election in that case was reversed by the D.C. Circuit, the Board, undaunted, continued on that path in *London's Farm Dairy*, 323 NLRB No. 186 (June 20, 1997), and *Reynolds Wheels*, 323 NLRB No. 187 (June 20, 1997). The misdirection continues today. We believe that this direction is contrary to the finest traditions of the Board, and is fraught with peril. We therefore dissent.

325 NLRB 1143 (Hurtgen, Brame, dissenting).

While the longstanding policy in favor of manual elections has perhaps become nothing more than a hollow recitation, *San Diego Gas* remains the seminal standard and, when applying that standard to the instant case, a mail ballot election was not appropriate because the employees in this case are not “scattered”, nor would a manual election require a substantial expenditure of agency resources.

3.2.1 The Election Unit Is Not Sufficiently Geographically “Scattered” to Warrant a Mail Ballot Election

In holding a mail ballot election was appropriate, the Regional Director cited to *San Diego Gas* because he determined that the eligible voters were “scattered” over a wide geographic area. (DDE at 3, citing *San Diego Gas*) (“In light of the dispersed geographic locations of employees’ worksites and the significant expense to the Agency to conduct a manual election, I find that a mail ballot election is appropriate in this case.”).

However, the voters in this case were not scattered. Ninety of the 93 eligible voters in this case work in locations 13 miles apart. Moreover, of the three employees that work furthest away (in Tacoma, WA): 1) Darren Brandenburg did not receive his voter kit in sufficient time to vote, 2) Eleicia Greene mailed a ballot that was never received by the Region, so her vote was not counted either, and 3) Wesley Mosier’s initial voter kit was returned to the Region as undeliverable more than a week after it was mailed and he had to be mailed a second voter kit on or about November 19, 2015. Put simply, the mail ballot election process hindered, or disenfranchised entirely the very group of employees it was supposed to help.

The indisputable facts as applied to the law rejects the Regional Director’s finding that the employees in this case are so geographically dispersed that a manual election would be “impractical.” The Board’s precedent calling for a manual election was appropriate. *Cf. Shepard*

Convention Serv., Inc. v. NLRB, 85 F.3d 671 (D.C. Cir. 1996) (refusing to enforce mail ballot election where employees worked at various venues across the city of Atlanta).

3.2.2 There Is No Evidence That a Mail Ballot Election Conserves Agency Resources In This Case

The Regional Director similarly abused his discretion in determining that there would be a “significant expense to the Agency to conduct a manual election.” (DDE at 3). The only support offered for this contention is that the worksites where the manual election would be held “are not owned by the Employer, which would require the Agency to procure space to conduct elections at the election sites proposed by the Employer.” (DDE at 3). However, Respondent offered up to four separate worksite locations in the Seattle area where it would provide private, secure conference rooms where a manual election could be held, free of charge to the Agency. Ten of Respondent’s worksites are less than a mile from the NLRB’s Seattle Regional Office, and all but one of the worksites are less than 12 miles from the Regional Office. The remaining worksite, the Tacoma Convention and Trade Center where only three employees are stationed, is only 25 miles from the Seattle Regional Office. There would be no reason for any Board agent to have to stay overnight at any location, nor would there be any reason why a Board agent could not quickly return to his or her office to perform work during the hours the election was not being conducted.

In sum, there is nothing in the record to support the Regional Director’s determination that a manual election would result in a significant expense to the Agency, or even that it would result in any greater expense than a mail ballot election. Therefore, the Regional Director abused his discretion in making that determination.

3.3 The Election Must Be Set Aside Because There Is a Reasonable Doubt as to Its Fairness and Validity

“Board precedent holds an election must be set aside only if the evidence ‘raises a reasonable doubt as to [its] fairness and validity.’” *Physicians & Surgeons Ambulance Serv., Inc. v. N.L.R.B.*, 477 Fed. Appx. 743, 744 (D.C. Cir. 2012) (quoting *Polymers, Inc.*, 174 NLRB 282, 282 (1969)). This is particularly true where, as in this case, an election is extremely close. *See Henderson Trumbull Supply Corp. v. N.L.R.B., Region 2*, 501 F.2d 1224, 1230 (2d Cir. 1974) (“Where, as here, an election is extremely close, even minor misconduct cannot be summarily excused on the ground that it could not have influenced the election.”) (citing *NLRB v. Skelly Oil Co.*, 473 F.2d 1079, 1085 (8th Cir. 1973)). There is more than a reasonable doubt as to the validity of the election in this case.

Respondent objected to conducting this election by mail ballot. Respondent also objects to the conduct of the election because as a result of flaws and irregularities in the Board’s mail ballot procedures, a determinative number of eligible voters were disenfranchised by virtue of casting ballots that were not counted and/or by not having been provided ballots in time to have their vote counted and/or by not being provided ballots upon request. After all, “[t]he fundamental purpose of a Board election is to provide employees with meaningful opportunity to express their sentiments concerning representation for the purpose of collective bargaining.” *Lemco Construction, Inc.*, 283 NLRB 459, 460 (1987).

Here, there is a reasonable doubt as to whether the decision to conduct the mail ballot election disenfranchised a determinative number of voters. As a result, there is a reasonable doubt as to whether the majority of the eligible unit actually voted in favor of representation, or whether employees were deprived of a meaningful opportunity to express their sentiments

concerning representation. Therefore, the election results should be set aside and a re-run election should be held.

3.3.1 The Election Results Should Be Set Aside in This Case

Eleicia Green mailed a ballot that was never received by the Region. Carlos Delgado mailed a ballot prior to the deadline that was not delivered until after the tally of ballots. Bryce Perry mailed the region a duplicate ballot that he did not receive until after the tally of ballots, because Perry himself did not receive the duplicate ballot until after the tally of ballots. Kevin Millen was disenfranchised because he changed addresses and received his ballot at his old address, but not in time to vote and return his ballot to the Region prior to the deadline. There is no evidence that Shawn Carter's duplicate ballot was provided to him in time to vote either. The Region was provided notice that Darren Brandenburg did not receive a ballot, but refused to send him a second ballot unless he contacted the Region directly. Drew Annen, Ritchie Garcia, Anthony Elliott and Darin Branshaw mailed ballots to the Region and to this day do not know why their votes were not counted. In an election decided by just three votes, the Region's mail ballot election prevented these ten individuals from having their vote count. The difference between voting for or against union representation was a mere three (3) votes. Any factor or combination of factors above is determinative of this election.

In declining to find that these issues with the mail system provide sufficient grounds to set aside the election in this case, the Region relies on *J. Ray McDermott & Co. v. NLRB* and *Versail Mfg., Inc.* for its position that the "disenfranchisement of eligible voters as a result of vagaries of postal service mail" does not necessitate overturning an election, and that there are substantial policy considerations favoring the finality of election results. *McDermott*, 571 F.2d 850, 855 (5th Cir. 1978), cert. denied 439 U.S. 893 (1978) ("It cannot be said that an election by

mail is per se invalid whenever a potentially decisive number of votes . . . is lost through the vagaries of mail delivery.”); *Versail*, 212 NLRB 592 (1974) (“There must be some degree of finality to the results of an election, and there are strong policy considerations favoring prompt completion of representation proceedings.”).

However, while issues with the mail may not require an election be set aside *per se*, they should require that the election be set aside in this case, and while there are strong policy considerations in favor of prompt completion of representation proceedings, they cannot be stronger than the policy considerations in favor of ensuring the validity and accuracy of the results in close elections such as this one.

Indeed, there are significant distinctions between this case and *McDermott*. In that case, the voting unit consisted of “[a]ll divers, tenders, and rack operators employed by the Respondent in its Diving Division; excluding all other employees, freelance divers and tenders, shop employees, dispatchers, office clerical employees, shop clerical employees, guards and supervisors as defined in the Act.” See *McDermott*, 227 NLRB at 1350. At the time, McDermott engaged in marine construction operations in Alaska, California, Louisiana, the Bahamas and throughout the Gulf of Mexico, in Egypt, Qatar, Saudi Arabia, the United Arab Emirates, and the Arabian Gulf, in Australia, India, Trinidad, Brazil and Indonesia. The approximately 86 eligible voters in *McDermott* were truly “scattered” over a “wide geographic area,” and a manual election was not practical. The mail ballot election in *McDermott* was essentially the best election process the NLRB could provide in a tough situation; the same cannot be said for the mail ballot election in this case.

Unlike in *McDermott*, 90 of the 93 eligible voters in this case work in locations 13 miles apart and a manual election could have easily been held. The *McDermott* election was also

conducted in 1978, at a time when regular mail played a much greater role in individuals' lives for purposes of communicating, paying bills, or browsing advertisements, before the widespread use of email, the internet and smart phones. The mail ballot election in this case was also conducted during the last three weeks of November, a busy time for the Post Office which results in increased mailing error and delays, and a time when many eligible voters were travelling out of town to see family (e.g., Mr. Delgado travelled to Miami, Florida).

The Board has set aside mail ballot elections in similar cases where problems with the mail ballot procedures resulted in voter disenfranchisement. In *Star Baking Co.*, 119 NLRB 835 (1957) the Board found that, having not received a mail ballot, the employee at issue did not have an adequate opportunity to vote. Both parties agreed that it “was not feasible for him to vote manually” because the employee was stationed 45 miles from the polling place. *Id.* at 836.

The Board set aside the election and directed a re-run election be held, stating:

[I]t is the responsibility of the Board to establish the proper procedure for the conduct of its elections, which procedure requires that all eligible voters, not merely a representative number, be given the opportunity to vote. It is particularly important to remedy the failure to discharge this responsibility where, as here, the vote of the employee who failed to receive a ballot could have affected the results of the election.

Id.; see also *Security '76*, 272 NLRB 201 (1984) (seven undelivered mail ballots tantamount to a failure to provide notice and an adequate opportunity to vote); *Oneida County Community Action Agency*, 317 NLRB 852 (1995) (Region's failure to mail duplicate ballots to two employees could have affected the result and necessitated setting aside the election); *North American Aviation*, 81 NLRB 1046, 1048, n.9 (1949) (overturning election where reasonable doubt existed as to whether all employees were given a fair opportunity to vote).

In this case, where the election should have been conducted manually, significant and potentially determinative issues with the mail ballot procedure should be given greater weight in

determining whether an election should be set aside. *North American Aviation*, 81 NLRB at 1048-1049 (Even acknowledging “the normal hazards of conducting an election by mail, the Board may find that all the facts, taken together, require that an election be set aside.”).

3.3.2 The Regional Director Committed Prejudicial Error in Failing to Include a Grace Period Between the Deadline to Return Ballots and the Tally of Ballots

The case law relied upon in support of its decision not to count late-arriving ballots is not applicable to this election dispute. In *Classic Valet Parking*, 363 NLRB No. 23 (October 23, 2015) the Board declined to count ballots that arrived after the tally of ballots. The deadline for the Board to receive ballots in that case was June 2nd, while the tally of ballots did not occur until June 4th. *Id.* Over the dissent of Member Miscimarra, the Board declined to count the late-arriving ballots explaining:

The Board’s rule already permits acceptance of mail ballots arriving after the date they are due, whatever the reason for the delay, as long as they are received before the scheduled ballot count. Thus, the rule provides a grace period for receipt of late ballots. At the same time, by excluding mail ballots received after the grace period expires, the Board’s rule effectuates the substantial policy considerations favoring finality of election results.

Id.

By contrast, the Regional Director in this case did not provide a grace period between the deadline to submit the ballots and the tally of ballots. Such a grace period is even more important here because the vote was taken during the holiday mail season (including “Black Friday” shopping advertisements and packages) and when employees often see family and friends or otherwise take time away from work during the holiday season. Moreover, if an employee’s ballot was determined to be void for failure to sign the envelope, as in the cases of Bryce Perry and Carlos Delgado, the employee would not have sufficient time to receive a duplicate ballot and mail that second ballot to the Region before the deadline. This is just the

type of issue anticipated by Board Agent Rzymiski above. (“If a voter is unsure of something, who are they going to ask? If they are afraid of doing the wrong thing or voting the wrong way, or enclosing the ballot in the return envelope that is filled out incorrectly, they more times than not will procrastinate and find it easier not to vote.”). Therefore, late-arriving ballots in this election should be opened and counted as well. *See Kerrville Bus Co.*, 257 NLRB 176 (1981) (finding late-arriving ballots should be opened and counted so long as they were mailed at a time when it could be reasonably anticipated they would be received by the Board in a timely manner through the normal course of the mails).

The Regional Director erred in scheduling the ballots to be tallied on the same date as the deadline for their return. At a minimum, any ballot mailed/postmarked on or before November 30, 2015 should be counted. We understand from speaking with the Board Agents that three ballots in the Board’s possession meet this criteria and they are of a sufficient amount that these ballots may determine the outcome of the election.

3.3.3 Unsigned Envelopes that Contain Another Envelope with a Completed Ballot Should Be Counted

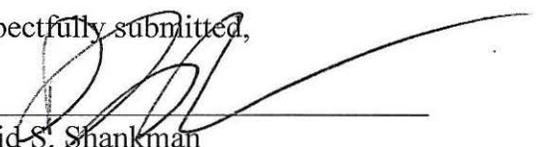
Board procedure requires an eligible voter to sign the back of the envelope (the yellow envelope) that contained another envelope (the blue envelope) that contains the ballot. However, there is no requirement as to *where* on the envelope the employee is required to sign nor is there any verification of the employee’s signature against other records. It is not a process intended to prevent voter fraud, nor would it establish that the envelope was not tampered with once sealed. Rather, there is a control number on each envelope that is used to verify that the specific employee ballot received was in fact received from that employee. The signature requirement is therefore an unnecessary impediment to a free election, and purports to fix a problem that does not exist. Neither Carlos Delgado, nor Bryce Perry (who voted twice) would have had to sign

their respective ballots if the election were not conducted by mail. “Not voting is always a person's right, but not voting out of confusion is more the fault of the mail ballot procedure than that entirely of the voter.” Rzymiski, *supra*. Therefore, the votes of Bryce Perry, Carlos Delgado and any other ballot received by the Region from a voter who did not sign the outer envelope should be counted.

4. **CONCLUSION**

For each and all of the foregoing reasons, it is clear that the Regional Director abused his discretion in directing a mail ballot election because the employees’ work locations are not sufficiently scattered, and because there is no evidence that a manual election would have resulted in a significant expense to the Agency. The evidence further shows that in an election decided by just three votes, the mail ballot election process prevented at least ten employees from voting. Bryce Perry, Carlos Delgado, Kevin Millen, Drew Annen, Darin Branshaw, Shawn Carter, Eleicia Greene, Darren Brandenburg, Anthony Elliott and Ritchie Garcia were prevented from having their vote count because of flaws and irregularities in mail ballot procedures that are not present in a manual election. Therefore, the Employer respectfully requests that the Board set aside the election results and that a re-run election be conducted manually at the earliest possible date.

Respectfully submitted,



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Tampa, Florida 33602
Phone: (813) 223-1099
Fax: (813) 223-1055
Attorneys for PSAV

EXHIBIT I

Michael Willats

From: McConnell, Carolyn <Carolyn.McConnell@nlrb.gov>
Sent: Friday, February 12, 2016 7:14 PM
To: David Shankman; Dmitri Iglitzin; Katelyn Sypher
Subject: 19-CA-167454, PSAV

Parties:

This case is being held in abeyance pending the Board's ruling on the request for review in 19-RC-167141.

Sincerely,

Carolyn McConnell
Field Attorney | National Labor Relations Board | Region 19
United States Government
2948 Jackson Federal Building, 915 Second Ave., Seattle, WA 98174
✉ carolyn.mcconnell@nlrb.gov | ☎ (206) 220-6285 | 📠 (206) 220-6305

The NLRB encourages all parties to file documents electronically through our online E-File system: <https://mynlrb.nlr.gov/portal/nlrb.pt?open=512&objID=202&mode=2>

EXHIBIT J

TO

REGION 19 REGIONAL DIRECTOR
DAVID SHANKMAN, ESQ.
DMITRILGLITZIN, ESQ.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AUDIO VISUAL SERVICES GROUP, INC.,
d/b/a PSAV PRESENTATION SERVICES
Employer

and

19-RC-161471

INTERNATIONAL ALLIANCE OF THEATRICAL
STAGE EMPLOYEES, LOCAL 15
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election and the Decision on Challenges and Objection and Certification of Representative is denied as it raises no substantial issues warranting review.¹

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

KENT Y. HIROZAWA, MEMBER

Dated, Washington, D.C., May 19, 2016.

¹ Member Miscimarra believes the instant case highlights some of the inherent disadvantages associated with conducting a mail-ballot election rather than a manual election, especially considering that four ballots mailed by four eligible voters were never received by the Region, and the Region did not count three other ballots received after the tally was conducted. Each of these problems involved a potentially determinative number of ballots, given that the tally was 36-33 in favor of the Union. However, Member Miscimarra agrees that the Regional Director did not abuse his discretion in conducting a mail-ballot election. He further believes that the instant case is materially different from *Classic Valet Parking*, 363 NLRB No. 23 (2015), and *Premier Utility Services, LLC*, 363 NLRB No. 159 (2016), two cases in which Member Miscimarra dissented based on this view that fundamental breakdowns in the mail-ballot election warranted rerun elections. In this case, Member Miscimarra concurs with the denial of review based on the high level of participation in the election, the relatively small (though possibly determinative) number of voters who were potentially disenfranchised, and the absence of substantial irregularities in the Region's adherence to the Board's mail-ballot procedures.

EXHIBIT K

From: Dmitri Iglitzin
Sent: Monday, January 04, 2016 12:11 PM
To: 'David Shankman'
Cc: Katelyn Sypher; 'Sal Ponce'; 'Mylor Treener'
Subject: PSAV Presentation Services 19-RC-161471

David:

Pursuant to Section 8(d) of the NLRA, IATSE Local 15 hereby formally requests that PSAV commence meeting with it on the earliest practical date to negotiate and execute an agreement relating to the wages, hours, and other terms and conditions of employment of the bargaining unit of PSAV employees that was recently certified by the NLRB (referenced above).

Mylor Treener, Business Agent for IATSE Local 15, will be the union representative for these negotiations. Please let Mylor know who will be his counterpart at PSAV, so he can discuss the scheduling of these negotiations.

Thank you very much,

Dmitri Iglitzin
Counsel for IATSE Local 15

Dmitri Iglitzin | Schwerin Campbell Barnard Iglitzin & Lavitt, LLP | 206.257-6003 | www.workerlaw.com

Union Representation - Strategic Organizing - Campaign Finance

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Katelyn Sypher

From: Katelyn Sypher
Sent: Monday, May 23, 2016 2:50 PM
To: 'David Shankman'
Cc: Dmitri Iglitzin
Subject: IATSE Local 15 - PSAV

David,

Now that the Board has denied PSAV's request for review of all Region 19 pre-election and election-related determinations, will PSAV honor its obligations under the Act and come to the table to bargain a first contract with Local 15?

Please let us know what dates the Employer has available for a first bargaining session.

Best regards,

Katelyn Sypher | Schwerin Campbell Barnard Iglitzin & Lavitt LLP | 206.257.6021 | www.workerlaw.com

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EXHIBIT L

Jennifer Woodward

From: Katelyn Sypher
Sent: Tuesday, May 24, 2016 10:57 AM
To: 'David Shankman'
Cc: Dmitri Iglitzin
Subject: RE: IATSE Local 15 - PSAV

David,

I've spoken with Mylor and he confirms that he's been in touch with Jason to confirm June 10 for the rigging negotiation session. The Local could do June 9 for the first techs bargaining session, if that works for PSAV – let me know. If the parties need to look at other dates for the tech session, I propose we hand over the scheduling to Mylor and Jason.

Thanks,

Katelyn Sypher | Schwerin Campbell Barnard Iglitzin & Lavitt LLP | 206.257.6021 | www.workerlaw.com

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From: David Shankman [<mailto:DShankman@shankmanleone.com>]
Sent: Tuesday, May 24, 2016 10:55 AM
To: Katelyn Sypher
Cc: Dmitri Iglitzin
Subject: RE: IATSE Local 15 - PSAV

Please advise regarding below. We asked Mylor a week ago if not longer and there has been no response.

David Shankman
Shankman Leone, P.A.
707 Franklin St.
5th Floor
Tampa, Florida 33602
Phone (813)223-1099
Facsimile (813) 223-1055
Direct: (813)252-7971

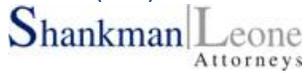
Shankman|Leone
Attorneys

From: David Shankman
Sent: Monday, May 23, 2016 8:14 PM
To: Katelyn Sypher <sypher@workerlaw.com>
Cc: Dmitri Iglitzin <iglitzin@workerlaw.com>
Subject: RE: IATSE Local 15 - PSAV

Katelyn, thanks for the note. We were waiting to hear back from Mylor regarding an agreed date for negotiations for the rigging contract but hadn't heard back. Since then, the NLRB decision was issued so I wanted to find out if we had enough time on June 9-10 or whether we wanted to block off some other dates. Should we handle that through you or through Mylor (he never got back to our RVP that he was working with). Please advise.

David Shankman

Shankman Leone, P.A.
707 Franklin St.
5th Floor
Tampa, Florida 33602
Phone (813)223-1099
Facsimile (813) 223-1055
Direct: (813)252-2971



From: Katelyn Sypher [<mailto:sypher@workerlaw.com>]
Sent: Monday, May 23, 2016 5:50 PM
To: David Shankman <DShankman@shankmanleone.com>
Cc: Dmitri Iglitzin <jglitzin@workerlaw.com>
Subject: IATSE Local 15 - PSAV

David,

Now that the Board has denied PSAV's request for review of all Region 19 pre-election and election-related determinations, will PSAV honor its obligations under the Act and come to the table to bargain a first contract with Local 15?

Please let us know what dates the Employer has available for a first bargaining session.

Best regards,

Katelyn Sypher | Schwerin Campbell Barnard Iglitzin & Lavitt LLP | 206.257.6021 | www.workerlaw.com
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Joint Motion and Stipulation of Facts was served on the 13th day of October, 2016, on the following parties:

E-File:

The Honorable Gerald Etchingam
Associate Chief Judge
National Labor Relations Board
Division of Judges
901 Market St., Ste. 300
San Francisco, CA 94103

E-mail:

David Shankman, Attorney
Shankman Leone, P.A.
707 N. Franklin St., 5th Fl.
Tampa, FL 33602
DShankman@shankmanleone.com

Katelyn Sypher, Attorney
Schwerin, Campbell, Barnard,
Iglitzin & Lavitt LLP
18 West Mercer St., Ste. 400
Seattle, WA 98119
sypher@workerlaw.com



Kristy Kennedy, Office Manager