

Chicago, IL

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

JAM PRODUCTIONS, LTD., EVENT
PRODUCTIONS, INC., STANDING ROOM ONLY,
INC., AND VICTORIA OPERATING CO., A
SINGLE EMPLOYER

and

Case 13-RC-160240

THEATRICAL STAGE EMPLOYEES UNION
LOCAL NO. 2, IATSE

ORDER

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

¹ We have treated the Regional Director's "Corrected Report on Objections" as a Decision on Objections. See 79 Fed. Reg. 74412 fn. 464 (Dec. 15, 2014). In denying the Employer's Request for Review, we find it unnecessary to pass on the Petitioner's Request for Review, as the ballots at issue there would not alter the outcome of the election.

Member Miscimarra joins his colleagues in affirming the Certification of Representative, but would overrule four ballot challenges sustained by the Regional Director. The Board agent challenged the ballots on the ground that the employees had been hired after the eligibility date set forth in the Stipulated Election Agreement. The election, however, had been deferred for approximately seven months under the Board's "blocking charge" doctrine and, following a settlement of the blocking charges, the Employer timely submitted the *Excelsior* list with the four additional voters included. In Member Miscimarra's view, where the Board's blocking charge doctrine results in a change to the election date in the Stipulated Election Agreement, the Board cannot reasonably enforce other material terms of the Agreement—here the eligibility date—against either party. *Tekweld Solutions, Inc.*, 361 NLRB No. 18, slip op at 3-4 (2014) (Member Miscimarra, dissenting in part), affd. 639 Fed. Appx. 16 (2d Cir. 2016). Moreover, there is no prejudice to the Union here because it received proper notice regarding the four voters when the Employer submitted the *Excelsior* list. Accordingly, Member Miscimarra would overrule the challenges to these four ballots. He would therefore reach and deny the Petitioner's Request for Review regarding five additional ballots challenged by the Board agent because the employees did not meet the stipulated eligibility criteria on grounds unrelated to the election's postponement. As a result, the four challenged ballots discussed above are non-determinative,

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., January 5, 2017.

unlike those at issue in *Tekweld*, and Member Miscimarra would therefore find no need to set aside the election results and direct a new election.