

**UNITED STATE OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

Sysco Columbia, LLC

Employer,

and

**International Brotherhood of Teamsters,
Local 504,**

Petitioner.

Case No. 10-RC-194843

REQUEST FOR REVIEW

COMES NOW Employer Sysco Columbia, LLC (“Sysco Columbia” or “Employer”) and, pursuant to Section 102.71 of the National Labor Relations Board’s Rules and Regulations, files this request for review of the decision by the Regional Director for Region 10 to hold the election in this case in abeyance due to the filing of a blocking charge by the International Brotherhood of Teamsters, Local 504 (“Union”). The Board should grant this Request for Review because the Regional Director’s action was, on its face, arbitrary and capricious under the facts of this case, and a substantial question of law or policy has been raised because the Regional Director departed from the requirements of the NLRB’s Regulations and Casehandling Manual (“CHM”).

I. STATEMENT OF THE CASE

A. The Petition

Sysco Columbia, LLC (“Sysco Columbia”) sells, markets and distributes food products to restaurants, healthcare and educational facilities, lodging establishments and other customers

who prepare meals away from home. The petition in the above-captioned representation case seeks a unit of transportation drivers working at Sysco Columbia's distribution facility in Columbia, South Carolina, along with "domicile drivers" working at Sysco Columbia's domicile yards in Charleston, Florence, Greenville, Hilton Head, and Myrtle Beach, SC and Augusta, GA.

The Union's initial petition for representation was filed on March 7, 2017. The Union withdrew that petition on March 14, 2017, then re-filed a petition in the above-captioned case later the same day.¹ On March 27, 2017, Sysco Columbia and the Union entered into a stipulated election agreement for a mixed mail-manual ballot election. (Exhibit A). The stipulated election agreement provided that the manual vote would take place on April 13 and 14, 2017, that the Region would mail the mail ballots to domicile delivery drivers on April 13, 2017, and the mail ballots would need to be received by the Region by close of business on April 27, 2017. All ballots would be impounded until April 28, 2017, when the vote count was scheduled to take place.

As planned, the mail ballots were mailed by the Board on April 13, 2017. The manual vote took place at the Columbia facility on April 13 and 14, 2017, with more than 90 employees (out of the total unit of approximately 140) voting, according to the Board Agent.

B. The Charge and the RD's Decision

On April 26, 2017, on the evening before the mail ballots were due and twelve days after the completion of the Columbia facility manual election, the Union filed an unfair labor practice charge (Case No. 10-CA-197586) (the "Charge") alleging violations of Sections 8(a)(1) and 8(a)(3) of the Act. (Exh. B). Sysco received a copy of the charge from the Board Agent at 5:27 PM on Wednesday, April 26. (Exh. C). Sysco then received a letter from the Regional Director

¹ The initial petition excluded the domicile drivers. The petition in the above-captioned case includes the domicile drivers.

holding the election in abeyance and impounding the ballots approximately 30 minutes later, at 6:02 PM. (Exh. D).

The next day, April 27, 2017, Sysco submitted a letter to the Region requesting that the Regional Director provide the reasons in writing for his decision to hold the election in abeyance. (Exh. E). Specifically, Sysco requested a copy of the offer of proof the Union was required to submit in order to block the election and suggested that any employee names contained in the offer of proof be redacted. (Id.) Sysco also asked the Regional Director to reconsider his decision to hold the election in abeyance. (Id.)

The Regional Director responded by email later that day, contending:

The blocking letters which were sent in the representation cases contained the written reasons for blocking the elections and/or ballot counts i.e. the referenced charges. Copies of the charges themselves have also been sent to you. The allegations in the charges provide additional information as to the nature of the allegations which led to the blocking of the election and/or ballot counts.

(Exhibit F).

The Regional Director's email offered no clarification regarding the reasons for his decision to hold the election in abeyance, other than by referencing the conclusory allegations of the charge and stating that "the offers of proof contain assertions of alleged pay increases, threats and other allegations which, if substantiated during the unfair labor practice investigations, would preclude the holding of free and fair elections." (Id.) The Region still has not provided Sysco with the particulars of the Union's allegations.

II. SYSKO'S REQUEST FOR REVIEW

Pursuant to Section 102.71 (b) of the Board's Rules and Regulations, a request for review of a Regional Director's decision to hold proceedings on a petition in abeyance may be granted on one or more 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) There are compelling reasons for reconsideration of an important Board rule or policy.
- (3) The Regional Director's action is, on its face, arbitrary or capricious.

29 C.F.R. §102.71(b).

In this case, immediate review is warranted because the Regional Director's action is, on its face, arbitrary and capricious and because a substantial question of law or policy is raised because of the absence of Board precedent or a departure from Board precedent.

A. The Regional Director's Action Was Arbitrary, Capricious, And An Abuse Of Discretion

The CHM states that “[t]he filing of a charge does not automatically cause a petition to be held in abeyance.” CHM §11730. Rather, it is within the Region's discretion to make an exception to the blocking policy. *Id.* at §11730.4 (“[T]he Regional Director should decide whether the general policy of holding the petition in abeyance should be applied.”) It is within the Regional Director's discretion to proceed with an election despite the pending ULP charge and resolve the unfair labor practices through the objections process. See CHM §11731.6. As shown below, the Regional Director's failure to proceed with the election in this matter was arbitrary, capricious, and in contravention of the Board's blocking charge policy.

First, the Region should not have held election in abeyance because *all of the votes had already been cast by the time the Regional Director held the election in abeyance*. The manual votes, which comprised the majority of the unit, were cast and impounded on April 13 and 14, 2017. The deadline for the Region to receive mail ballots was April 27, meaning that even if employees found out about the RD's decision to hold the election in abeyance after the parties

were informed at 6:01 p.m. on April 26, all the mail ballots the Region would have counted had already been placed in the mail.

Because the votes had already been cast, there simply was no legitimate reason for the Regional Director to hold the processing of the petition in abeyance. The purpose of the Board's blocking charge policy is to postpone an election, not to postpone the counting of ballots that have already been cast. See CHM § 11730.2 (noting that a charge should block the petition when "the charge alleges conduct that, if proven, would interfere with employee free choice in an election, *were one to be conducted...*"). Postponing the count in a completed election serves no purpose than unnecessary delay.

Instead of blocking the vote count, the Regional Director should have opened the ballots, issued a tally, and resolved any alleged unfair labor practices through the objections process, which was an option available to the RD under the CHM. That process would potentially conserve the Board's and the parties' resources, since the vote count could reveal that the Union has won the election, which would likely cause the Union to withdraw the Charge. If, on the other hand, the vote count was in Sysco's favor, the Board and the parties would expend no more resources resolving the Union's allegations through the objections process than they would by resolving the alleged unfair labor practices through the charge process. Further, if a majority of employees voted for union representation, delaying the vote count does nothing more than artificially lengthen the time before they can commence collective-bargaining through their chosen representative. There simply is no legitimate reason not to proceed with the vote count and resolve the alleged unfair labor practices thereafter through the objections process.

Second, the RD should not have held the case in abeyance because the filing of the Charge was clearly a dilatory tactic by the Union. As the Board's Casehandling Manual notes,

“it should be recognized that the [blocking charge] policy is not intended to be misused by a party as a tactic to delay the resolution of a question concerning representation raised by a petition.” CHM §11730. In this case, the Union waited until two days before the vote count and twelve days after over 90 drivers had already voted at the Columbia facility to file the Charge. The Union’s motive in filing the Charge, rather than using the objections process, was on its face intended to unduly delay the processing of the petition, a prime factor for the Region’s consideration in determining whether or not to proceed in the face of a blocking charge. The Regional Director ignored this glaring fact in granting the Union’s request to hold the election in abeyance under these circumstances, which is a clear abuse of discretion.

It is well settled that an arbitrary, unsupported decision by a Regional Director may be invalidated by the Board. *See, e.g., Pepsi-Cola Bottling Co. of Alaska, Inc.*, 159 N.L.R.B. 1325, 1328 (1966). In this instance, the Regional Director’s actions were arbitrary, capricious, and an abuse of discretion. As such, the Board should direct the Regional Director to continue processing the petition in this case, count the ballots that are currently impounded, and issue a tally of ballots.

B. The Regional Director Did Not Follow The Board’s Own Procedures

The Regional Director’s decision should further be reviewed because “a substantial question of law or policy is raised because of (i) the absence of, or (ii) a departure from officially reported Board precedent.” Under the Board’s rules, when a party requests that an election be blocked, that party is required to submit an offer of proof, which the RD reviews in determining whether to hold the petition in abeyance. 29 C.F.R. §103.20. If the offer of proof does not describe evidence that, if proven, would interfere with employees’ free choice in the election, the

RD should continue to process the petition. *Id.* Once the Region makes its decision whether or not to hold the case in abeyance, it must inform the parties of its reasoning. As the CHM states:

The Board agent handling the matter should inform the parties of any determinations made with regard to concurrent charges and petitions *and the reason therefor. If any party requests the reasons in writing, the regional director should promptly provide them.*

CHM §11730.7 (emphasis added).

In this case, the Regional Director departed from this established Board precedent by refusing to provide the reasons in writing for his decision. By letter on April 27, 2017, Sysco Columbia promptly requested that the Regional Director provide the reasons for his decision to hold the election in abeyance. (Exh. E). Specifically, Sysco Columbia requested a copy of the offer of proof submitted by the Union pursuant to Regulation §103.20 so that it could have the same, sufficient information the Regional Director relied upon in making its decision, thus allowing Sysco the necessary information to better evaluate and if necessary pursue - or not - this request for review. Sysco even suggested that the offer of proof be redacted to remove the names of any non-supervisory employees. However, instead of providing the reasons for his decision or a redacted copy of the offer of proof, the Regional Director merely referred Sysco to the bare allegations of the Charge and claimed that this satisfied the requirements of the CHM. (Exh. F.)

As the U.S. Supreme Court has acknowledged, duly promulgated regulations have the force of law and must be followed by both the public and the government, including the agency that promulgated them. See *U.S. v. Nixon*, 418 U.S. 683, 696 (1974) (holding that although Attorney General had authority to amend regulations, “[s]o long as this regulation remains in force the Executive Branch is bound by it, and indeed the United States as the sovereign composed of the three branches is bound to respect and to enforce it”). Therefore, the Regional

Director was not free to disregard the duly promulgated rules set forth in the CHM nor the new regulations that now require offers of proof and thus make them *immediately available in the process*, a rule that clearly demonstrates the intent of the Board to prevent abuses of the blocking process. The Regional Director's interpretation of the CHM – that he could satisfy his obligation to provide Sysco with the “reasons in writing” for his decision merely by referencing the bare allegations of the charge and not with a more detailed explanation up to and including a redacted copy of the offer of proof – would render the CHM's requirements completely meaningless. Further, by the failing to adequately address Sysco's request for the blocking charge offer of proof and by refusing to provide the same, the Regional Director has completely ignored the Board's clear intent in §103.20 of the Rules and Regulations and §11730.7 of the CHM. The Regional Director's actions were clearly insufficient to comply with the Regional Director's obligations under both the Board's Regulations and the CHM.

III. CONCLUSION

For the reasons set forth above, the Board should direct the Regional Director to continue processing the petition in this case, count the ballots that are currently impounded, and issue a tally of ballots. Any alleged unfair labor practices can thereafter be resolved through the objections process, if that is necessary. Pursuant to the Board's rules, a copy of this request has been served upon the Regional Director and the Union via electronic mail.

Dated this 10th day of May, 2017.

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.



Mark M. Stuble
Attorney for Sysco Columbia, LLC

CERTIFICATE OF SERVICE

I, Mark M. Stublely, do hereby certify that the foregoing was served on the following parties on the 10th day of May 2017.

Claude T. Harrell, Jr., Regional Director
National Labor Relations Board
Region 10
Harris Tower
233 Peachtree Street N.E.
Suite 1000
Atlanta, GA 30303-1531
Via E-Mail

Chris Rosell
International Brotherhood of Teamsters, Local Union 509
2604 Fish Hatchery Road
West Columbia, SC 29172-2036
E-Mail: crosell@teamster.org
Via E-Mail


Mark M. Stublely

29772403.1

Sysco Columbia, LLC and Teamsters Local Union 509
Case No. 10-RC-194843

Exhibit A

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STIPULATED ELECTION AGREEMENT

Sysco Columbia, LLC

Case 10-RC-194843

The parties **AGREE AS FOLLOWS:**

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, Sysco Columbia, LLC, is a limited liability corporation in the State of Delaware with an office and place of business located at 131 Sysco Court, Columbia, South Carolina, and domiciles located in Charleston, Florence, Greenville, Hilton Head, and Myrtle Beach, South Carolina, and Augusta, Georgia. The Employer is engaged in selling, marketing, and distribution of food products in Columbia, Charleston, Florence, Greenville, Hilton Head, and Myrtle Beach, South Carolina, and Augusta, Georgia. During the past 12 months, a representative period of time, the Employer in the course of conduct of its operations described above, derived gross revenues in excess of \$500,000 and during that same period of time, purchased and received goods and materials valued in excess of \$50,000 from suppliers located outside the States of South Carolina and Georgia.

3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. A secret-ballot election under the Board's Rules and Regulations shall be held under the supervision of the Regional Director on the date and at the hours and places specified below.

| | |
|---|--|
| DATE: April 13, 2017 | HOURS: 9:00pm to 12midnight |
| April 14, 2017 | 2:00 am to 5:00 am 3:00 pm to 6:00 pm |
| PLACE: Multi-Purpose Room #5 131 Sysco Ct Columbia, SC | |

If the election is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

The election will be conducted in part by mail. The mail ballots will be mailed to the delivery drivers employed at the domiciles located in Charleston, Hilton Head, Myrtle Beach, Florence, Greenville, South Carolina, and Augusta Georgia, from the office of the National Labor Relations Board, Region 10, on April 13, 2017. In addition, all shuttle drivers (from all

Initials: 

locations) and Columbia, South Carolina delivery drivers and specialty drivers will vote a manual ballot at the Employer's Columbia, South Carolina facility located at 131 Sysco Ct. in Columbia, South Carolina, on April 13, 2017, and April 14, 2017. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Sub-Region 11 office by close of business on **April 27, 2017**. The mail ballots and impounded manual ballots will be counted at the Sub-Region 11 office located at 4035 University Pkwy., Ste 200, Winston Salem, NC 27106-3275 at 11:00 am on Friday, **April 28, 2017**.

To help avoid the untimely return of a ballot, any person who has not received a ballot by April 20, 2017, or otherwise requires a duplicate mail ballot kit should contact the Region 10 office in order to arrange for another mail ballot kit to be sent to that employee.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

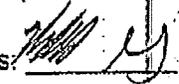
All full-time and regular part-time Delivery Drivers, Specialty Drivers, and Shuttle Drivers, who are employed by the Employer at its centralized facility located at 131 Sysco Court in Columbia, South Carolina, and its domiciles located in Charleston, Hilton Head, Florence, Myrtle Beach, Greenville, South Carolina, and Augusta, Georgia; excluding all other employees, office clerical employees, guards and supervisors as defined in the National Labor Relations Act.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending March 25, 2017**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above in paragraph 4.

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

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, 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. 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. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The

Initials: 

Employer must file with the Regional Director a certificate of service of the list on all parties. The Employer will provide separate election eligibility lists for those employees voting by mail and those voting manually.

7. THE BALLOT. The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by International Brotherhood of Teamsters Local Union 509?" The choices on the ballot will be "Yes" or "No".

8. NOTICE OF ELECTION. The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

9. NOTICE OF ELECTION ONSITE REPRESENTATIVE. The following individual will serve as the Employer's designated Notice of Election onsite representative: Almetrice Weldon, HR Business Partner, 131 Sysco Ct., Columbia, SC 29209

Email: Weldon.almetric@sysco.com

Telephone Number: 803.239.4006

Facsimile Number: 803.239.4016

10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

12. TALLY OF BALLOTS. Immediately upon the conclusion of the last voting session, all ballots cast will be comingled and counted and a tally of ballots prepared and immediately made available to the parties.

13. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

Sysco Columbia, LLC
(Employer)

International Brotherhood of Teamsters
Local Union 509
(Petitioner)

Initials 

By [Signature] 3/27/2017
(Name) (Date)

By [Signature] 3/27/17
(Name) (Date)

Michael Schoenfeld, Attorney

(Union)

By _____
(Name) (Date)

Recommended: Ingrid J. Jenkins 3.27.17
Ingrid J. Jenkins, Field Examiner (Date)

Date approved: 3/28/2017

Claude T. Harrell, Esq.
Regional Director, Region 10
National Labor Relations Board /DC

Exhibit B

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

| DO NOT WRITE IN THIS SPACE | |
|----------------------------|------------|
| Case | Date Filed |
| 10-CA-197586 | 4/26/17 |

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

| | | |
|--|--|--|
| a. Name of Employer: Sysco Columbia, LLC | | b. Tel. No. (803) 239-4006 |
| d. Address (street, city, state, ZIP code) 131 Sysco Ct Columbia, SC 29209 | | c. Cell No. (803) 479-9160 |
| e. Employer Representative Mike Turner, Vice President Employer Representative | | f. Fax No. (803) 239-4016 |
| i. Type of Establishment (factory, nursing home, hotel) Food Distribution | | g. e-Mail Weldon.almatrice@sysco.com |
| j. Principal Product or Service Distribution of food products | | h. Dispute Location (City and State) Columbia, SC |
| | | k. Number of workers at dispute location 145 |

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3), 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 last (6) months prior to the date of this charge, the above-mentioned Employer, through its officers, agents and representatives, interfered with, restrained and coerced its employees in the exercise of their Section 7 rights and has discriminated with respect to hire, tenure and other conditions of employment because of his/her engaging in union and concerted protected activities and/or to discourage membership in a labor organization including but not limited to:

See Attachment A⁹

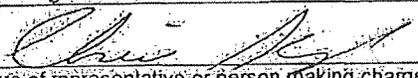
By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

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

Teamsters Local Union 509

| | | |
|--|--|----------------------------------|
| 4a. Address (street and number, city, state, and ZIP code) 2604 Fish Hatchery Rd West Columbia, SC 29172 | | 4b. Tel. No. (803) 796-6172 |
| | | 4c. Cell No. (202) 528-3775 |
| | | 4d. Fax No. (803) 796-7890 |
| | | 4e. e-Mail rrwc82@comcast.net |

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)

| | | |
|--|--|--|
| 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. | | Tel. No. (803) 796-6172 |
| By:  (signature of representative or person making charge) | Chris Rosell, Int. Organizer Print Name and Title | Office, if any, Cell No. (202) 528-3775 |
| Address: 2604 Fish Hatchery Rd West Columbia, SC 29172 | | Fax No. (803) 796-7890 |
| Date: 4/26/2017 | | e-Mail crosell@teamster.org |

WILFUL 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

Attachment "A"

In the last 6 months the above mentioned Employer, through its officers, agents and representatives have violated employees Section 7 rights by;

1. Granting employees improved wages, benefits and/or improved terms and conditions of employment in an effort to discourage employees from supporting the union.
2. Interrogating employees about their union membership, activities, sympathies and protected concerted activities and the union membership, activities, sympathies and protected concerted activities of other employees.
3. Informing employees that it would be futile for them to select the union as their collective bargaining representative.
4. Threatening employees with a loss of wages, benefits and/or terms and conditions of employment in an effort to discourage employees from supporting the union.
5. Soliciting employee grievances and implied unspecified remedies to their grievances in an effort to discourage employees from selecting the union as their collective bargaining representative.
6. Creating the impression that their union and protected concerted activities were under surveillance.
7. Threatening employees with the inevitability of strikes in an effort to discourage employees from supporting the union.
8. Polling employees as to how they were going to vote in the upcoming election for representation.

Exhibit C

From: Jenkins, Ingrid J. [<mailto:Ingrid.Jenkins@nlrb.gov>]
Sent: Wednesday, April 26, 2017 5:27 PM
To: Stublely, Mark
Cc: Fowles, III, James H.; Fulton, Keily I.; Fisher, H. Ellis
Subject: Sysco Columbia, LLC, Cases 10-CA-197586 and 10-CA-197588

Everyone,

Attached are copies of the blocking charges.

Ingrid

Exhibit D

Merrell, John

From: Jones, Jacqueline K. <Jacqueline.Jones@nrb.gov>
Sent: Wednesday, April 26, 2017 6:01 PM
To: Stuble, Mark; Fowles, III, James H.; Merrell, John; michael@sfglawyers.com; crosell@teamster.org
Cc: Jenkins, Ingrid J.; Combs, Terry D.; Harrell, Claude T.; Thompson, Scott C.; Shearin, Lisa R.; Lewis, Lauren
Subject: BLT.10-RC-194843.Blocking Letter
Attachments: BLT.10-RC-194843.Blocking Letter.pdf

Hello,

Please see the attached Blocking Letter.

Thank you.

Jackie Jones, Officer In Charge Secretary
NLRB Sub-region 11
4035 University Pkwy, Suite 200
Winston-Salem, NC 27106
336-582-7128 Ph.
336-631-5210 Fax
jacqueline.jones@nrb.gov



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 11
4035 University Pkwy Ste 200
Winston Salem, NC 27106-3275

Agency Website: www.nlr.gov
Telephone: (336)631-5201
Fax: (336)631-5210

April 26, 2017

Mark M. Stublely, Esq.
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
The Ogletree Building
300 North Main Street, Suite 500
Greenville, SC 29601-0275

Re: Sysco Columbia, LLC
Case 10-RC-194843

Dear Mr. Stublely:

This is to notify you that the petition in the above-captioned case will be held in abeyance pending the investigation of the unfair labor practice charges in Case 10-CA-197586. As a result, the ballots scheduled to be counted on April 28, 2017 will be impounded.

Right to Request Review: Pursuant to Section 102.71 of the National Labor Relations Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. The request for review shall be submitted in eight copies, unless filed electronically, with a copy filed with the regional director, and all copies must be served on all the other parties. The request must contain a complete statement setting forth facts and reasons upon which the request is based.

Procedures for Filing Request for Review: A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (**5 p.m. Eastern Time**) on May 10, 2017, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time** on May 10, 2017.

Consistent with the Agency's E-Government initiative, parties are encouraged, but not required, to file a request for review electronically. Section 102.114 of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing a request for review electronically may be accomplished by using the Efiling 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. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review 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, absent a determination of technical failure of the site, with notice of such posted on the website.

The Board may grant special permission an extension of time within which to file a request for review. A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the regional director and to each of the other parties to this proceeding. A request for an

extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Very truly yours,

Claude T. Harrell Jr.
Regional Director

By:



Scott C. Thompson
Officer in Charge

cc: Office of the Executive Secretary (by e-mail)

Troy Barnes, President
131 Sysco Ct
Columbia, SC 29209-5143

James H. Fowles, Attorney
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
2142 Boyce St Ste 401
Columbia, SC 29201-2675

John T. Merrell, Esq.
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
300 N. Main Street, Suite 500
Greenville, SC 29601

Chris Rosell, Organizer
International Brotherhood of Teamsters
Local Union 509
2604 Fish Hatchery Rd
West Columbia, SC 29172-2036

Michael B. Schoenfeld, Attorney
Stanford Fagan LLC
2540 Lakewood Avenue
Atlanta, GA 30315

Exhibit E

Ogletree Deakins

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

Attorneys at Law

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Mark M. Stublely
mark.stublely@ogletree.com

April 27, 2017

Via Electronic Filing and E-Mail

Mr. Claude T. Harrell Jr.
Regional Director
National Labor Relations Board
Region 10, Subregion 11
4035 University Pkwy Ste 200
Winston-Salem, NC 27106-3275

Re: Sysco Columbia, LLC
Case 10-RC-194843

Dear Mr. Harrell:

This firm represents Sysco Columbia, LLC (“Sysco”) in the above-referenced matter (the “RC case”). We are in receipt of your April 26, 2017 letter holding the RC case in abeyance pending resolution of an unfair labor practice charge (Case No. 10-CA-197586) (the “Charge”) filed by the Union. Pursuant to §11730.7 of the Casehandling Manual (“CHM”), Sysco requests the reasons in writing for the Region’s decision to hold the election in the above-referenced matter in abeyance, so that Sysco may evaluate whether to file an Emergency Request for Review to the NLRB. Specifically, Sysco requests a copy of the offer of proof the Union was required to submit in order to block the election. To the extent the names of unit employees are shown in the offer of proof, Sysco proposes that those names be redacted by the Board.

We also request that the Region reconsider the nature of this charge and elect not to further delay the scheduled count of the manual and mail ballots that have been (and will be) cast and impounded by the Board. Specifically, we request that the Region conduct the vote count as soon as possible, issue a tally, and determine the validity of the election if objections are filed. This option is available to the Region under the CHM and would be appropriate in light of the extremely limited amount of time the Region had available to assess the merits of the Charge prior to the vote count. See CHM § 11731.6 (“When an election has already been scheduled and thereafter a Type I or Type II unfair labor practice charge is filed too late to permit adequate investigation before the scheduled election, the Regional Director may, in his/her discretion...Conduct the election, issue the tally of ballots and, in the absence of objections, issue a certification; and then proceed to investigate the charge.”)

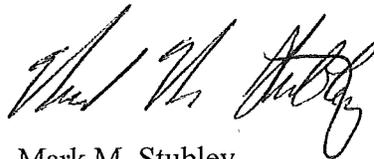
Mr. Claude T. Harrell Jr.
April 27, 2017
Page 2

Ogletree
Deakins

If you have any questions, please do not hesitate to call or email me.

Sincerely,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

A handwritten signature in black ink, appearing to read "Mark M. Stuble". The signature is written in a cursive, flowing style with some loops and flourishes.

Mark M. Stuble

29637317.1

Sysco Columbia, LLC and Teamsters Local Union 509
Case No. 10-RC-194843

Exhibit F

Merrell, John

From: Harrell, Claude T. <Claude.Harrell@nlrb.gov>
Sent: Thursday, April 27, 2017 2:30 PM
To: Merrell, John
Cc: Jenkins, Ingrid J.; Thompson, Scott C.; Stublely, Mark; Combs, Terry D.; Henderson, Lisa Y.
Subject: RE: Sysco Columbia, LLC - 10-RC-194843 [ODNSS-OGL.002870.000123]

Dear Mr. Merrill:

You letters in this case and in 10-CA-195759 were previously forwarded to me by the Winston-Salem office for consideration.

The blocking letters which were sent in the representation cases contained the written reasons for blocking the elections and/or ballot counts i.e. the referenced charges. Copies of the charges themselves have also been sent to you. The allegations in the charges provide additional information as to the nature of the allegations which led to the blocking of the election and/or ballot counts.

Based on the offers of proof submitted in the representation cases, which correspond to the allegations in the charges, I have concluded the Petitioner has submitted sufficient evidence to block the representation cases at this point. I further have concluded that the most efficient use of our resources would be to investigate and dispose of the alleged unfair labor practices prior to proceeding any further in the representation cases.

I cannot provide you with redacted copies of the offers of proof. I can state, however, the offers of proof contain assertions of alleged pay increases, threats and other allegations which, if substantiated during the unfair labor practice investigations, would preclude the holding of free and fair elections.

At an appropriate time in the investigation of the charges, a letter will be sent asking for the Employer's responses to the allegations in the charges.

You may, of course, appeal my determination to block the elections and/or ballot counts as set forth in the blocking letters.

Very truly yours,

Claude T Harrell, Jr.
Regional Director

From: Merrell, John [<mailto:John.Merrell@ogletree.com>]
Sent: Thursday, April 27, 2017 2:07 PM
To: Harrell, Claude T. <Claude.Harrell@nlrb.gov>
Cc: Jenkins, Ingrid J. <Ingrid.Jenkins@nlrb.gov>; Thompson, Scott C. <Scott.Thompson@nlrb.gov>; Stublely, Mark <Mark.Stublely@ogletreedeakins.com>
Subject: Sysco Columbia, LLC - 10-RC-194843 [ODNSS-OGL.002870.000123]

Dear Mr. Harrell,

Please see the attached letter regarding the Region's decision to hold the election in Case 10-RC-194843 in abeyance.

John T. Merrell | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

The Ogletree Building, 300 North Main Street, Suite 500 | Greenville, SC 29601 | Telephone: 864-240-8233 | Fax: 864-235-8806

john.merrell@ogletree.com | www.ogletree.com | [Bio](#)

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