

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AFP SPECIALTIES, INC.
Employer

and

SHERYL L. BECKMAN
Petitioner

Case 07-RD-187706

and

ROAD SPRINKLER FITTERS LOCAL
UNION NO. 669, U.A., AFL-CIO
Union

ORDER

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

PHILIP A. MISCIMARRA, CHAIRMAN

MARK GASTON PEARCE, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., May 18, 2017

¹ We agree that the bargaining relationship between the Union and the Employer with respect to the Employer's sprinkler fitters was governed by Section 8(f), not Section 9(a), of the Act, for the reasons discussed in the Regional Director's decision. See also *G & L Associated, Inc., d/b/a USA Fire Protection*, 358 NLRB 1722 (2012) (*Noel Canning* Board), motion for reconsideration denied 359 NLRB 574 (2013), affirmed and incorporated by reference 361 NLRB No. 58 (2014), in which we held that identical language in the Union's recognition agreement did not establish Section 9(a) status under *Staunton Fuel & Material, Inc., d/b/a Central Illinois Construction*, 335 NLRB 717 (2001). Accordingly, the Regional Director correctly rejected the Union's arguments regarding the multiemployer unit and contract bar in directing an election in the single-employer unit. *John Deklewa & Sons*, 282 NLRB 1375, 1385 (1987), enfd. sub nom. *Iron Workers Local 3 v. NLRB*, 843 F.2d 770 (3d Cir. 1988), cert. denied 488 U.S. 889 (1988). Finally, we decline to address the Union's argument under *Casale Industries, Inc.*, 311 NLRB 951 (1993), which it failed to timely present to the Regional Director and which accordingly is not properly before us. See Sec. 102.67(e) of the Board's Rules & Regulations; *Pulau Corp.*, 363 NLRB No. 8, slip op. at 1 fn. 1 (2015).

In denying review, Chairman Miscimarra notes his disagreement with *Staunton Fuel*, supra, for the reasons stated in his opinions in *Colorado Fire Sprinkler Inc.*, 364 NLRB No. 55, slip op. at 3-6 (2016) (Member Miscimarra, dissenting), and *King's Fire Protection, Inc.*, 362 NLRB No. 129, slip op. at 3-6 (2015) (Member Miscimarra, dissenting in part). Nevertheless, he agrees that the Union has failed to prove valid 9(a) status in the single-employer unit here under any relevant standard. Chairman Miscimarra disagrees with the holding of *Casale Industries*, supra, for the reasons stated in his partial dissent in *Kings Fire Protection*, supra, slip op. at 7-8. Accordingly, he would find that the challenge to the Union's Sec. 9(a) status was timely even if the *Casale Industries* argument had been timely presented to the Regional Director.