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July 22, 2016

VIA ELECTRONIC FILING

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Region 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Attn: James G. Paulsen, Regional Director

Re: E.W. Howell Co., LLC's Objections to (July 8, 2016) Election
Case No.: 29-RC-177927

Dear Regional Director Paulsen:

We represent the employer, E.W. Howell Co., LLC ("Howell"), with respect to the above-referenced matter. This communication is respectfully submitted pursuant to Section 102.69 of the Board's Rules and Regulations, as well as per the instructions and guidelines set forth in FORM NLRB-5547 (4-15), issued to the parties by the Region on June 20, 2016. In short, and without belaboring this letter, Howell objects to the conduct affecting the results of the recently-held election, on July 8, 2016 ("Election"), for the following reason: *the number of votes cast is insufficient for the Board to certify the Election.*

There was only one vote that was cast in the Election, a ballot in favor of the Petitioner (as detailed in the "Corrected Tally of Ballots," issued on July 15, 2016, of which a true and correct copy is annexed hereto as "Attachment A"). Howell objects to the certification of the ballots, in so far as such would obligate Howell vis-à-vis any relationship with the Petitioner. Accordingly, to certify the results of the Election, in favor of the Petitioner, would appear to be fruitless if not imprudent. Howell contends the Election, with only one vote cast, is not legally sufficient to create a section 9(a) relationship between Howell and the Petitioner. To wit, under existing Board case law and other relevant materials, no situation has been uncovered by the undersigned where only one vote cast in favor of a Petitioner in a Section 9(a) election provided the basis for certification by the Region. Also, presumptively and logically, as the "[Board will not] certify or find appropriate a single-person unit in a representation proceeding" (*Sunray Ltd.*, 258 NLRB 517, 518 (1981)), the Board should also not certify an election where only a single vote was cast.

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For the objection detailed above, Howell requests the Region not certify the Election. Of course, should you or anyone else at the Region have any questions or need any further explanation or information concerning any of the above or attached, please feel free to contact the undersigned at your earliest convenience. Also, Howell respectfully requests, in advance, permission to reply to any response by the Petitioner to this submission.

Thank you very much for your time and consideration in this matter.

Respectfully submitted,

HOLLAND & KNIGHT LLP



Howard Sokol

cc: **VIA E-MAIL**

Raymond G. Heineman, Esq. (RHeineman@krollfirm.com)
Counsel to Petitioner, Northeast Regional Council of Carpenters

ATTACHMENT A

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

Date Filed
Jun 9, 2016

E.W. HOWELL CO. INC.	
Employer	
and	
NORTHEAST REGIONAL COUNCIL OF CARPENTERS	
Petitioner	

Case No. 29-RC-177927

Date Issued 07/08/2016 - Original Tally

7/13/16 - Corrected Tally

City Plainview State NY

Type of Election:
(Check one:)

Stipulation

Board Direction

Consent Agreement

RD Direction
Incumbent Union (Code)

(If applicable check either or both:)

8(b) (7)

Mail Ballot

CORRECTED 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 2
- 2. Number of Void ballots 0
- 3. Number of Votes cast for PETITIONER 1
- 4. Number of Votes cast for _____ -
- 5. Number of Votes cast for _____ -
- 6. Number of Votes cast against participating labor organization(s) 0
- 7. Number of Valid votes counted (sum 3, 4, 5, and 6) 1
- 8. Number of challenged ballots 0
- 9. Number of Valid votes counted plus challenged ballots (sum of 7 and 8) 1

10. ~~Challenged ballots are not subtracted from the number of votes. The results of the election are based on the number of valid votes counted plus challenged ballots.~~

11. A majority of the valid votes counted plus challenged ballots (Item 9) has not been cast for PETITIONER, NORTHEAST REGIONAL COUNCIL OF CARPENTERS

For the Regional Director James M. Paulson

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 _____