

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

RH CEMETERY CORP.

Employer

and

Case 21-RC-206360

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 265, CEMETERY WORKERS
& GREENS ATTENDANTS

Petitioner

ORDER

The Employer's request for review of the Regional Director's Decision on Objections and Certification of Representative is denied as it raises no substantial issues warranting review.¹

JOHN F. RING, CHAIRMAN

MARVIN E. KAPLAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

Dated, Washington, D.C., November 20, 2018

¹ The arguments in the Employer's Request for Review largely rely on security videos that were submitted to the Regional Director. The Employer, however, did not append those videos to its Request for Review as required by Sec. 102.67(e) and Sec. 102.69(d)(3). Moreover, even if we were to accept the Employer's characterization of what those videos depict, the allegations in the Request for Review do not warrant overturning the election under *Milchem, Inc.*, 170 NLRB 362, 362-363 (1968). Among other failings, the Request for Review falls well short of establishing the necessary prima facie case (1) that the Union supporters who allegedly engaged in objectionable electioneering and surveillance were agents or representatives of the Union, (2) that the Union supporters had sustained discussions with voters, and (3) that the Union supporters' conversations occurred while employees were waiting to vote. See, e.g., *id.* Similarly, the Employer's Request for Review fails to assert facts supporting a finding that nonparties engaged in conduct that would "so substantially impair[] the employees' exercise of free choice as to require that the election be set aside." *Hollingsworth Management Service*, 342 NLRB 556, 558 (2004) (internal quotations and citations omitted); see also *Rheem Mfg. Co.*, 309 NLRB 459, 462-463 (1992) (refusing to set aside election where pro-union employee wearing union shirt and hat stood outside of polling room, spoke with employees passing by to vote, and shouted and encouraged them to "vote yes"). Nor does the Employer's Request for Review assert facts supporting a finding that the Board agent engaged in conduct that "raises a reasonable doubt as to the fairness and validity of the election." *Physicians & Surgeons Ambulance Service, Inc.*, 356 NLRB 199, 199 (2010) (quoting *Polymers, Inc.*, 174 NLRB 282, 282 (1969), *enfd.* 414 F.2d 999 (2d Cir. 1969), *cert. denied* 396 U.S. 1010 (1970)).

Member Kaplan notes that many of the issues in this case could have been avoided by the designation and enforcement of a no-electioneering zone.