

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AM/NS CALVERT, LLC
Employer/Petitioner

and

Case 15-RM-246203

UNITED STEEL, PAPER & FORESTRY,
RUBBER, MANUFACTURING, ENERGY
ALLIED INDUSTRIAL & SERVICE
WORKERS INTERNATIONAL UNION
Union

ORDER

The Employer/Petitioner's Request for Review of the Regional Director's Order Directing Mail-Ballot Election is granted as it raises substantial issues warranting review. Although a Regional Director has the authority to revoke a stipulated election agreement for cause, and in other cases we have denied review of Regional Directors' revocations of stipulated election agreements due to concerns relating to the Covid-19 pandemic present at the time those stipulated election agreements were revoked, in this case the Regional Director did not revoke the stipulated election agreement. Instead, she modified it by directing a mail-ballot election in place of the agreed-upon manual election. Under *T & L Leasing*, 318 NLRB 324 (1995), such modification of an election agreement constitutes a material breach of the agreement. We therefore vacate the direction of a mail-ballot election and remand the case for further appropriate action.¹ The Employer/Petitioner's request for extraordinary relief is denied as moot.

JOHN F. RING, CHAIRMAN

MARVIN E. KAPLAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

Dated, Washington, D.C., June 30, 2020.

¹ In the event the Regional Director concludes that safety concerns relating to the Covid-19 pandemic prevailing at this time warrant revocation of the stipulated election agreement, she shall issue a Notice of Hearing at which the parties will be free to raise and litigate issues consistent with Sec. 102.63, 102.64, and 102.66 of the Board's Rules and Regulations. Pursuant to well-established precedent codified at Sec. 102.66(g)(1), however, election details—including election type—are nonlitigable matters. See generally *Morrison Healthcare*, 369 NLRB No. 76, slip op. at 2 (2020) ("Regional Directors may hold hearings in which the parties merely state their positions on nonlitigable matters such as election details.").