

February 17, 2021

E-File

Roxanne L. Rothschild, Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington, D.C. 20570-0001

Re: All Fire Solutions, Inc.,
NLRB Case No. 25-RC-267772

Dear Ms. Rothschild:

Pursuant to Section 102.67 of the NLRB Rules and Regulations, Petitioner Road Sprinkler Fitters Local 669, U.A., AFL-CIO (“Local 669” or “the Union”) respectfully submits the following request for review of the Acting Regional Director’s decision to reject the Union’s objections to the unlawful and coercive election interference by All Fire Solutions, Inc. (“All Fire”) as untimely filed. Exhibit A.

As we show below, it is undisputed that the Union’s election objections were timely submitted to, and received by the Regional Director on January 27, 2021, and timely served upon All Fire, well within the time limits as provided in the NLRB’s Rules and Regulations. And it is undisputed that the same underlying misconduct by All Fire was already the subject of unfair labor practice charges pending at the Region at the time of the election. The Acting Regional Director’s decision to reject the Union’s objections is based entirely on the method of delivery of the objections -- by email rather than e-file -- and is not a proper basis for rejecting timely objections and thereby leaving the All Fire’s coercive interference with the employees’ right to vote unremedied. Nor can the Acting Regional Director’s decision be reconciled with NLRA policy or precedent.

Chronology of Undisputed Facts

The basis for both the Union’s election objections and this request for review were presented to the Regional Director by letter dated February 3 (Exhibit B) which presented the following undisputed and well documented facts:

1. The Union filed unfair labor practice charges against All Fire on October 29, 2020, and the charges were amended on January 25, before the election. The charges allege the same coercive and unlawful interference with the election process that is the subject of the objections at issue here. Exhibit C (Case No. 25-CA-268280).
2. The Union’s objections to All Fire’s unlawful conduct were due to be filed with the Regional Director on Thursday, January 28. They were filed, by email directly to her



attention at 9:30 a.m. on January 27, *the day before they were due*, together with an offer of proof. All Fire was served with, and received the objections at the same time. These are undisputed facts. Exh. B, para. 1 and Attachments 1, 2.

3. The objections and offer of proof were submitted to, and received at the Regional Director's email address. Exh. B, para. 2 and Attachment 3. Upon receipt of the objections the Region did not contact the Union to advise that the objections and offer of proof should have been resubmitted through "e-filing" or that they would be rejected.
4. Two days later, on January 29, and *only after* the due date for filing objections had expired, the Region informally advised Union counsel that the objections should have been "e-filed" rather than emailed. The Union immediately proceeded to re-file its previously emailed objections and offer of proof by the "e-file" process. On February 2, the Region informally advised the Union that it was inclined to reject both submissions of objections as untimely because the original set was not "e-filed." The Union's request for reconsideration was e-filed the next day. Exhibit B.
5. As the Union pointed out to the Region in its request for reconsideration, the basis for the Union's objections to the election -- the repeated and extremely coercive conduct by All Fire's owner and managers -- is also the subject unfair labor practice charges that were pending at the time of the filing of objections. Exhibit B, para. 6; Exhibit C (Case No. 25-CA-268280). Indeed, the Region had already taken a number of affidavits supporting the Union's charges at that time.
6. Section 102.69(a)(8) of the NLRB Rules and Regulations states that "[w]ithin five business days after the tally of ballots ... any party may file with the Regional Director objections ... to conduct affecting the results of the election." This is precisely what happened here. The Regulation itself does not specify that the objections and offer of proof be filed by any specific medium. And Section 102.2(b) of the Regulations states that such a "document must be received by the ... officer or agent designated to receive such matter on or before the last day of the time limit for such filing..." Neither regulation mandates that objections be "e-filed" or filed by any specific medium. And to reiterate, it is undisputed that the objections were submitted to and received by the Regional Director and to All Fire on January 27, the day before they were due and the Board's time limits were therefore satisfied here. Exh. B, para. 1 and Attachments 1, 2.
7. In filing its objections and offer of proof by email, Union counsel's office admittedly overlooked the e-filing provisions in Section 102.5(c) of the NLRB Rules and Regulations, a harmless clerical error that the Region was obviously well aware of, but failed to alert the Union to in a timely manner.
8. The decision by the Acting Regional Director does not challenge or dispute any of the facts recited above, facts that had previously been documented and presented to the

Region. Exhibit B.¹ It is undisputed that, because All Fire was timely served with the Union's objections and offer of proof by email on January 27, All Fire was not prejudiced in any way. The only injury would be suffered by the bargaining unit employees who were deprived of a fair election by All Fire's unlawful and coercive conduct with no available NLRA remedy if the Union's timely-filed objections are rejected as untimely.

Argument

1. The Acting Regional Director's rejection of the Union's timely-filed and served election objections should be reversed and the case remanded for a hearing on the objections. At most, the rejection of the timely-filed and served objections below is premised upon an entirely harmless administrative error that could and should have been corrected except for the Region's failure to timely notify the Union before the objection due date. Had the Region merely picked up the telephone on January 27, the objections to All Fire's coercive interference with the election would be subject to a proper hearing and a re-run election remedy.
2. The decision by the Acting Regional Director to reject the Union's objections to the election on timeliness or other grounds is a proper subject of review by the NLRB. *E.g.*, *Cargill Neutrena*, 344 NLRB 1125, 1125-26 (2005); *McLane Mid-Atlantic, Inc.*, 316 NLRB 299, 299 (1995).
3. A timely filed unfair labor practice charge alleging the same election-related misconduct as would be covered by objections has been treated by the Board as the equivalent of timely objections to the election. *Avis Rent-A-Car*, 324 NLRB 445, 445 (1997).
4. The Region could have accepted the Union's pending and conforming unfair labor practice charges as the equivalent to timely election objections, *Avis Rent-A-Car*, 324 NLRB at 445, taken the email and printed it and then accepted it as hand-delivered (*Cargill Neutrena*, 344 NLRB at 1126), or as "post-marked" as of the date of the email filing. *McLane Mid-Atlantic*, 316 NLRB at 299.
5. And to reiterate, there was no prejudice whatever to the Employer or violation of NLRB principles by the Union's harmless administrative oversight and therefore no basis for denying the bargaining unit employees a fair election or excusing the Employer's misconduct. *Gardner Engineering, Inc.*, 313 NLRB 755, 756, n. 2 (1994), citing *Irving Air Chute*, 149 NLRB 627 (1964).

Petitioner Local 669 therefore requests that the Acting Regional Director's decision be reversed, the case remanded, and the Union's objections adjudicated as timely-filed. By this request for review, the Union is also requesting that the Region reconsider its error.

¹ All Fire's submissions to the Region in opposition to the Union's request for reconsideration are enclosed. Exhibit D. All Fire did not contest any of the facts recited herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William W. Osborne, Jr.", written in a cursive style.

William W. Osborne, Jr.

cc: Regional Director, Region 25
Acting Regional Director, Region 25
John D. Meyer, Attorney
Brian Dunn
Brian Fisher
Andy Meyers
Greg Pierle

EXHIBIT A



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 25
575 N Pennsylvania St Ste 238
Indianapolis, IN 46204-1520

Agency Website: www.nlrb.gov
Telephone: (317)226-7381
Fax: (317)226-5103

February 8, 2021

William W. Osbourne, Counsel
Osborne Law Offices, PC
1130 Connecticut Ave NW
Suite 950
Washington, DC 20036
b.osborne@osbornelaw.com

Re: Fire Protection Design & Construction,
Inc., d/b/a All Fire Solutions, Inc.
Case 25-RC-267772

Dear Mr. Osbourne:

I am rejecting the objections that you sent to this office by email to the Regional Director on January 27, 2021. Section 102.5 of the Board's Rules and Regulations governs the manners in which documents are to be filed with Agency and served by parties. More specifically, Section 102.5(c) states in pertinent part¹:

Unless otherwise permitted under this section, all documents filed in cases before the Agency must be filed electronically ("E-Filed") on the Agency's Web site (www.nlrb.gov) by following the instructions on the Web site. ... Documents may not be filed with the Agency via email without the prior approval of the receiving office.

Since your January 27, 2021 objections were not filed with the Agency in a permissible manner under the Rules, I must reject these objections.²

Additionally, I am rejecting as untimely the objections that you e-filed with this office via the NLRB website on February 1, 2021. Pursuant to the Board's Rules and Regulations, Section 102.69(a)(8) states in pertinent part:

¹ See also *GC Memorandum 20-01, Electronic Filing of Documents* (October 21, 2019).

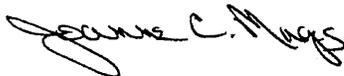
² You did not seek prior approval to email your objections nor have you submitted any written explanation for why you did not have the means to electronically file the objections via the NLRB website or why timely doing so posed an undue burden for you. Similarly, you have not contended that you timely submitted your objections via another acceptable filing means under the Rules, such as Section 102.5(e) which permits the filing of objections with the Agency by facsimile.

February 4, 2021

Within 5 business days after the tally of ballots has been prepared, any party may file with the Regional Director objections to the conduct of the election or to conduct affecting the results of the election which shall contain a short statement of the reasons therefor and a written offer of proof in the form described in Section 102.66(c) insofar as applicable, except that the Regional Director may extend the time for filing the written offer of proof in support of the election objections upon request of a party showing good cause. Such filing(s) must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election.

The Tally of Ballots in this case was prepared on January 21, 2021. Therefore, any objections to this election were due by the close of business on January 28, 2021. Your objections e-filed on February 1, 2021, are untimely. Additionally, Regional Directors are not authorized to extend the time for the filing of objections. See *John I Haas, Inc.*, 301 NLRB 300 (1991). Accordingly, I must reject your untimely e-filed objections.

Very truly yours,



Joanne C Mages
Acting Regional Director

cc:

John D. Meyer, Esq.
Goodin Meyer, P.C.
3021 E 98th St Ste 140
Indianapolis, IN 46280-1964
jmeyer@goodinmeyer.com

Bruce Agan
Fire Protection Design & Construction, Inc.,
d/b/a All Fire Solutions, Inc.
110 S. Park Blvd
Greenwood, IN 46143
aganb@allfire-solutions.com

Road Sprinkler Fitters Local Union No. 669, U.A.
7050 Oakland Mills Road
Suite 200
Columbia, MD 21046
Fax: (301) 621-8045

EXHIBIT B

February 3, 2021

E-Filed and by Electronic and UPS Overnight Mail

Patricia K. Nachand, Regional Director
National Labor Relations Board, Region 25
575 N. Pennsylvania Street
Room 238
Indianapolis, IN 46204

Re: All Fire Solutions, Inc.,
NLRB Case No. 25-RC-267772

Dear Regional Director Nachand:

Petitioner Road Sprinkler Fitters Local 669, U.A., AFL-CIO ("Local 669" or "the Union") respectfully submits the following in response to what we have been informed is your inclination to reject the Union's objections to the unlawful and coercive conduct by All Fire Solutions, Inc. ("All Fire") as untimely filed. Please review the following submission and reconsider your views.

It is undisputed that the Union's objections were timely filed and received by your office and by All Fire well within the time limits as provided in the NLRB's Rules and Regulations, Sections 102.69(a)(6) and 102.2:

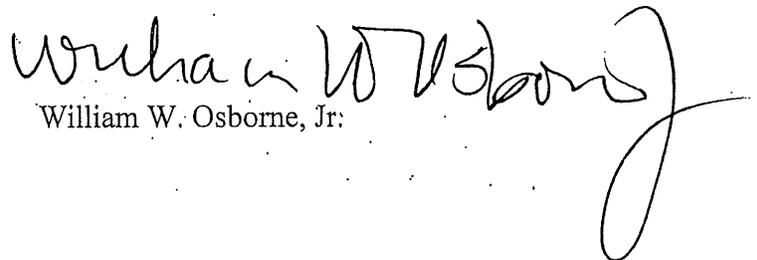
1. The Union's objections were due to be filed with the Regional Director Thursday, January 28. They were filed, by email directly to your attention at 9:30 a.m. on January 27, *the day before they were due*, together with an offer of proof. All Fire was served with, and received the objections at the same time. These are undisputed facts. Attachments 1, 2.
2. The objections and offer of proof were served at the Regional Director's email address. Attachment 3.
3. Two days later, *after* the due date, the Region advised us that the objections should have been "e-filed." We proceeded to "e-file" the previously filed objections and offer of proof. Yesterday, we were advised that you were inclined to reject both submissions of objections as untimely because the first set were not "e-filed."
4. The applicable provision of the NLRB Rules and Regulations, at Section 102.69(a)(8), states that "[w]ithin five business days after the tally of ballots ... any party may file with the Regional Director objections ... to conduct affecting the results of the election." The Regulation *does not* specify that the objections and offer of proof be filed by any specific medium. And Section 102.2(b) of the Regulations states that such a "document must be

received by the ... officer or agent designated to receive such matter on or before the last day of the time limit for such filing..." That is precisely what occurred here. Neither regulation mandates that objections be "e-filed" or filed by any specific medium. And, to reiterate, it is undisputed and documented that the objections were filed and received by you and All Fire on the day before they were due and these time limits were therefore satisfied here. Attachments 1, 2.

5. Yesterday, we received a letter from the Region, dated January 22, relating to the election issues. Attachment 4. The Region stated that the parties' submissions relating to the election were due on January 28, five (5) days before the letter was received. (Obviously, the postal service is challenged in the present environment.) The Region "strongly urged" but *did not* require, that the parties' submissions be e-filed.
6. It is worth emphasizing that the basis for the objections is the repeated and extremely coercive conduct by All Fire's owner and managers, which is also the subject of pending unfair labor practice charges. Case No. 25-CA- 268280.
7. And it likewise undisputed that All Fire was timely served with the Union's objections and therefore not prejudiced in any way. The only "prejudice" would be to the bargaining unit employees who were subjected to All Fire's coercion and will be deprived of a fair election without a remedy if the Union's timely-filed objections are rejected as untimely.

We therefore request that the Region accept and consider the Union's objections as timely filed.

Respectfully submitted,


William W. Osborne, Jr.

cc: John D. Meyer, Attorney
Jessica Cholewa, Field Examiner
Brian Dunn
Brian Fisher
Andy Meyers
Greg Pierle

Bill Osborne

From: Craig Noome
Sent: Wednesday, January 27, 2021 9:28 AM
To: patricia.nachand@nlrb.gov
Cc: Bill Osborne; jmeyer@goodinmeyer.com; bdunn669@att.net; bfisher669@gmail.com; andymeyers669@gmail.com; gregpierle23@gmail.com
Subject: All Fire Solutions, Inc., NLRB Case No. 25-RC-26772
Attachments: 20210127093702626.pdf

Please see the attached.

Regards.

Craig H. Noomé
Office Manager
OSBORNE LAW OFFICES, P.C.
1130 Connecticut Avenue, NW
Suite 950
Washington, DC 20036
(202) 243-3200

Osborne Law Offices

PROFESSIONAL CORPORATION

January 27, 2021

By Electronic Mail

Patricia K. Nachand, Regional Director
National Labor Relations Board, Region 25
575 N. Pennsylvania Street
Room 238
Indianapolis, IN 46204

Re: All Fire Solutions, Inc.;
NLRB Case No. 25-RC-26772

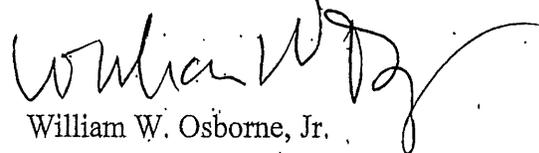
Dear Regional Director Nachand:

Pursuant to the NLRB's Rules and Regulations, Section 102.69(a)(6), Petitioner Road Sprinkler Fitters Local 669, U.A., AFL-CIO ("Local 669" or "the Union") respectfully submits the following objections to unlawful and coercive conduct by All Fire Solutions ("All Fire") that prevented a fair election in the above-referenced matter.

All Fire, through its owner, comptroller and supervisors, repeatedly threatened different employees that it would close its operations if the employees voted for the Union; advised an applicant that his interview would be immediately halted if he stated that he was a member of or in favor of the Union; told another employee that if he was interested in the Union's apprenticeship program he should leave the Company; refused to consider and/or re-hire a former employee because of his known affiliation with the Union; and unilaterally implemented a new bonus program for employees during the pre-election period.

The foregoing coercive and discriminatory conduct constitutes flagrant violations of the unfair labor practice provisions of the NLRA as well as ample grounds for overturning the election. An offer of proof is separately submitted herewith.

Respectfully submitted;



William W. Osborne, Jr.

cc: John D. Meyer, Attorney
Brian Dunn
Brian Fisher
Andy Meyers
Greg Pierle

Bill Osborne

From: Craig Noome
Sent: Wednesday, January 27, 2021 9:30 AM
To: patricia.nachand@nlrb.gov; Bill Osborne; bdunn669@att.net; bfisher669@gmail.com; andymeyers669@gmail.com; gregpierle23@gmail.com
Subject: All Fire Solutions Inc., NLRB Case No. 25-RC-26772
Attachments: 20210127093710726.pdf

Please see the attached.

Craig H. Noomé
Office Manager
OSBORNE LAW OFFICES, P.C.
1130 Connecticut Avenue, NW
Suite 950
Washington, DC 20036
(202) 243-3200

Bill Osborne

From: Nachand, Patricia <Patricia.Nachand@nrlb.gov>
Sent: Wednesday, May 10, 2017 11:05 AM
To: Bill Osborne
Cc: Williams, Raifael; Chad Scott (cmscott669@gmail.com); Beck, Michael T.
Subject: RE: Send data from Toshiba5540 04/28/2017 09:05

Mr. Osborne: Thank you for your message. Supervisory Attorney Michael Beck will contact you about this.

Pat Nachand
Regional Director
NLRB, Region 25/Subregion 33

-----Original Message-----

From: Bill Osborne [mailto:bosborne@osbornelaw.com]
Sent: Wednesday, May 10, 2017 8:20 AM
To: Nachand, Patricia <Patricia.Nachand@nrlb.gov>
Cc: Williams, Raifael <Raifael.Williams@nrlb.gov>; Chad Scott (cmscott669@gmail.com) <cmscott669@gmail.com>
Subject: RE: Send data from Toshiba5540 04/28/2017 09:05

Regional Director Nachand -- We have previously advised the Region that the caption on the Complaint is in error and identifies the incorrect Employer. The matter came up when we had not received an Answer and were advised that the Employer was avoiding service (see below). Can someone let us know if the Complaint has been corrected and service accomplished? Thank you. Bill Osborne

-----Original Message-----

From: Bill Osborne
Sent: Friday, April 28, 2017 9:11 AM
To: 'Williams, Raifael'
Cc: Chad Scott (cmscott669@gmail.com)
Subject: FW: Send data from Toshiba5540 04/28/2017 09:05

Mr. Williams -- In reviewing the Complaint, it appears that the name of the Employer is incorrect. A&C Fire Protection is the formal party to the cba and also the party subject to the ulp charge. Both "A&C" entities are located at the same address (a residence) and both have the same telephone number (see enclosures). Please advise. Thanks. Bill Osborne

-----Original Message-----

From: Toshiba Copier [mailto:Toshiba@osbornelaw.com]
Sent: Friday, April 28, 2017 9:06 AM
To: Bill Osborne
Subject: Send data from Toshiba5540 04/28/2017 09:05

Scanned from Toshiba5540

Date:04/28/2017 09:05

Pages:2

Resolution:200x200 DPI



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

ATTACHMENT 4

REGION 25
575 N Pennsylvania St Ste 238
Indianapolis, IN 46204-1520

Agency Website: www.nlr.gov
Telephone: (317)226-7381
Fax: (317)226-5103

January 22, 2021

William W. Osbourne, Counsel
1130 Connecticut Ave NW
Suite 950
Washington, DC 20036
b.osborne@osbornelaw.com

John D. Meyer, ESQ.
Goodin Meyer, P.C.
3021 E 98th St Ste 140
Indianapolis, IN 46280-1964
jmeyer@goodinmeyer.com

Re: Fire Protection Design & Construction,
Inc., d/b/a All Fire Solutions, Inc.
Case 25-RC-267772

Dear Mr. Osbourne and Mr. Meyer:

As you are aware, the challenged ballots cast in the election conducted in the above matter are sufficient in number to affect the results. The following voters were challenged for the reason listed:

NAME	CHALLENGED BY	REASON
Seth Abad	Employer	Temporary Employee
Jeffrey Bennett	Employer	Temporary Employee, No Community of Interest as a "Salt"
Sonny Lawrence	Employer	Challenge of Board Agent decision to void ballot with printed name and not signature
Donald McCollum	Board Agent	Pre-apprentice classification challenge directed by Decision and Direction of Election
Cameron Quinn	Union	Temporary Employee
Brad Wagner	Board Agent	Voter Name not on List

Investigator: The investigation of the challenged ballots has been assigned to Field Examiner JESSICA K. CHOLEWA, whose telephone number is (317)991-7640.

January 22, 2021

Requested Information: Please provide a statement of position with respect to the challenge of each voter listed above explaining why each of the challenged individuals is or is not eligible to vote in the election **together with all evidence you have in support of your position.** This submission should be received by this office by January 28, 2021. While we strongly urge submission by eFiling (not e-mailing) through our website, www.nlr.gov, we will also accept timely filed paper documents.

Potential Hearing Date: If I determine that the challenged ballots raise substantial and material factual issues, I will schedule a hearing for February 11, 2021 or as soon as practicable thereafter, unless the parties agree to an earlier date or I consolidate this proceeding with an unfair labor practice proceeding before an Administrative Law Judge. The hearing will continue from day to day until completed unless I conclude that extraordinary circumstances warrant otherwise.

If you have any questions concerning the above, please feel free to contact me or Field Examiner CHOLEWA.

Very truly yours,

/s/ Patricia K. Nachand

PATRICIA K. NACHAND
Regional Director

cc: Road Sprinkler Fitters Local Union No.
669, U.A.
7050 Oakland Mills Road
Suite 200
Columbia, MD 21046
Fax: (301) 621-8045

Bruce Agan
Fire Protection Design & Construction,
Inc., d/b/a All Fire Solutions, Inc.
110 S. Park Blvd
Greenwood, IN 46143
aganb@allfire-solutions.com

EXHIBIT C



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 25
575 N Pennsylvania St Ste 238
Indianapolis, IN 46204-1520

Agency Website: www.nlr.gov
Telephone: (317)226-7381
Fax: (317)226-5103



Download
NLRB
Mobile App

January 25, 2021

Road Sprinkler Fitters Local
Union No. 669, U.A., ALF-CIO
7050 Oakland Mills Road, Suite 200
Columbia, MD 21046

Re: All Fire Solutions (U.S. Automatic Fire and
Security)
Case 25-CA-268280

Dear Sir or Madam:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Examiner JESSICA K. CHOLEWA whose telephone number is (317)991-7640. If the agent is not available, you may contact Supervisory Field Examiner ROGER CHASTAIN whose telephone number is (317)991-7639.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the

January 25, 2021

Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,



PATRICIA K. NACHAND
Regional Director

cc: William W. Osborne, Esq.
Osborne Law Offices, PC
1130 Connecticut Ave NW Ste 950
Washington, DC 20036

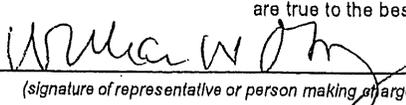
UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 25-CA-268280	Date Filed 1/25/21

INSTRUCTIONS:

(Amended)

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer All Fire Solutions (U.S. Automatic Fire and Security)	b. Tel. No. (317) 883-9433
	c. Cell No.
	f. Fax, No.
d. Address (Street, city, state, and ZIP code) 110 S. Park Blvd. Greenwood, IN 46143	e. Employer Representative Bruce Agan
	g. e-mail McCollumj@allfire-solutions.com
	h. Number of workers employed 11
i. Type of Establishment (factory, mine, wholesaler, etc.) Construction	j. Identify principal product or service Fire Protection
The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(1), 8(a)(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 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) In September and October 2020, the Employer interrogated and threatened employees regarding their Union affiliation and on or about September 8, 2020, the Employer unlawfully refused to consider Brad Wagner, a former employee and current Union member, because of his Union membership.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Road Sprinkler Fitters Local Union No. 669, U.A., AFL-CIO	
4a. Address (Street and number, city, state, and ZIP code) 7050 Oakland Mills Road Suite 200 Columbia, MD 21046	4b. Tel. No. (410) 381-4300
	4c. Cell No.
	4d. Fax No. (301) 621-8045
	4e. e-mail
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) United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the US/Canada	
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.	
 <i>(signature of representative or person making charge)</i>	William W. Osborne, Jr., Counsel <i>(Print/type name and title or office, if any)</i>
1130 Conn Ave, NW, Ste 950, Washington, DC 20036 Address _____	Tel. No. (202) 243-3200
Date 1/25/2021	Office, if any, Cell No.
	Fax No. (202) 243-3207
	e-mail b.osborne@osbornelaw.com

**WILLFUL 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 set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

EXHIBIT D

Goodin ♦ Meyer

Legal Counsel

JOHN D. MEYER
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DIRECT 317-204-2018

February 3, 2021

E-FILED VIA www.nlr.gov

Patricia K Nachand, Regional Director
NLRB, Region 25

Re: All Fire Solutions, Inc.,
25-RC-267772

Dear Regional Director Nachand:

Please accept this letter as All Fire Solutions, Inc.'s ("All Fire") rebuttal to Local 669's February 3, 2021 letter addressed to your attention.

The union's letter essentially argues that emailing objections to the attention of the Regional Director constitutes "filing" under the Board's Rules and Regulations. All Fire does not know whether the union e-mailed objections to the election to your email; however, the Board's Rules and Regulations clearly do not consider e-mailing objections to an election to constitute "filing." The Board's Rules and Regulations expressly require that objections must be filed within five (5) business days of the tally of ballots, and the Rules and Regulations also expressly require that all documents, except for expressly specified documents, are to be E-filed through the Agency's web portal (www.nlr.gov). Objections to an election are not one of the specified documents that are allowed to be filed through the mail or a delivery service. Additionally, the union alleges that it e-mailed its objections not that it mailed its objections. The Rules and Regulations expressly state that documents cannot be filed by e-mail unless prior approval to do so has been given by the receiving office. Thus, the Rules and Regulations expressly deny that the emailing of any document can constitute filing unless prior approval to do so was given. There is no assertion in the union's February 3, 2021, letter that it received prior permission to file objections by e-mail. It is also clear that the Rules and Regulations require by *mandatory language* that the filing of objections "*must be timely.*" The following excerpts are relevant provisions of the Rules and Regulations:

1. Unless otherwise permitted under this section, all documents filed in cases before the Agency **must be filed** electronically ("E-Filed") on the Agency's Web site (www.nlr.gov) by following the instructions on the Web site . . . Documents **may not be filed with the Agency via email without the prior approval of the receiving office.** R&R 102.5(c) (emphasis added)

2. Within 5 business days after the tally of ballots has been prepared, any party may **file** with the Regional Director **objections** to the conduct of the election or to conduct affecting the results of the election which shall contain a short statement of the reasons therefor and a written offer of proof in the form described in §102.66(c) insofar as applicable, except that the Regional Director may extend the time for filing the written offer of proof in support of the election objections upon request of a party showing good cause. Such **filing(s) must be timely** whether or not the challenged ballots are sufficient in number to affect the results of the election. R&R 102.69(a)(8)

3. (c) *Extension of time to file.* Except as otherwise provided, a request for an extension of time to file a document **must be** filed no later than the date on which the document is due: R&R 102.2(c)

By ignoring Section 102.5(c) of the R&R, the union's letter attempts something of a slight of hand in paragraph numbered 4. The union's letter states that 102.69(a)(8) does not specify that objections are to be E-filed; however, Section 102.5(c) does specify that all documents unless otherwise specified in the section are required to be E-filed. Additionally, 102.5(c) expressly prohibits filing by e-mail. The union also neglects to point out that Section 102.2(b) itself distinguishes between E-filed and Non E-filed documents.

Paragraph Number 5 of the union's letter complains that the Board's January 22, 2021 letter strongly urged but did not require the statement of position on the challenged ballots to be E-filed. Of course, if the union did not receive the letter until February 3, 2021, it could hardly have caused any confusion. Nevertheless, this letter concerned the challenged ballots and the Rules and Regulations do not address the filing of the parties' position on challenged ballots, whereas Section 102.69(a)(8) does require that objections to conduct allegedly affecting the election be filed within five (5) business days of the tally of ballots.

The fact that the Rules and Regulations make the timely filing of Objections mandatory is further made explicit by R&R 102.2(d). The Rules and Regulations allow only expressly delineated documents to be filed late only upon good cause shown based on a finding of excusable neglect and only if a specified procedure is followed for requesting late. Objections are not one of the documents listed in 102.2(d) for late filing documents. A fundamental rule of construction would hold that by expressly listing certain documents that may qualify for late filing under certain circumstances, the intent of the rules is to require the timely filing of all other documents.

The Rules and Regulations compel the rejection of the Union's objections to conduct allegedly affecting the election because the union did not timely file their objections under the NLRB's Rules and Regulations.

Patricia K Nachand, Regional Director
February 3, 2021
Page 3

Very truly yours,

GOODIN MEYER, P.C.

A handwritten signature in black ink, appearing to read "J.D. Meyer". The signature is written in a cursive, flowing style.

John D. Meyer

cc: William Osborne, Jr., Esq.
Jessica Cholewa, Field Examiner
Bruce Agan

Goodin ♦ Meyer

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DIRECT 317-204-2018

February 4, 2021

E-FILED VIA www.nlr.gov

Patricia K Nachand, Regional Director
NLRB, Region 25

Re: All Fire Solutions, Inc.,
25-RC-267772

Dear Regional Director Nachand:

All Fire Solutions, Inc., files this letter to respond to Local 669's letter from earlier today, which misrepresents All Fire's position on the union's untimely filing of objections to the election in the above referenced matter.

The union's letter falsely claims that All Fire does not dispute that the union timely filed objections to the election. All Fire's letter of February 3, 2021 clearly set out that the Rules and Regulations do not consider an email to constitute filing. The union alleges it emailed its objections to the Regional Director without prior authorization from the Region to accept an email as filing. Thus, the union admits that it did not timely file its objections.

All Fire would of course prefer that the Rules and Regulations are followed as written and intended and that the application of the Rules and Regulations are applied consistently. Prejudice devolves from arbitrary and capricious application of procedural law, which is meant to provide an even playing field for both parties.

All-Fire vehemently denies any improper interference in the election. The results of the election and the sentiments of the employees against unionization are what the union seeks to discard with their fabricated allegations.

Very Truly Yours,

GOODIN MEYER, P.C.



John D. Meyer

Patricia K Nachand, Regional Director
February 4, 2021
Page 2

cc: William Osborne, Esq.
Bruce Agan