

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

PROFESSIONAL BASEBALL UMPIRE CORPORATION ^{1/}

Employer

and

ASSOCIATION OF MINOR LEAGUE UMPIRES

Petitioner

Case 5-RC-15043

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.^{2/}
3. The Petitioner involved claims to represent certain employees of the Employer.^{3/}
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:^{4/}

All full-time and regular part-time umpires employed by the Employer at various locations throughout the United States and Canada excluding all other employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An Election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike that began more than 12 months before the election date and who have been permanently

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replaced. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by

ASSOCIATION OF MINOR LEAGUES UMPIRES

LIST OF VOTERS

To insure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this Decision. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

Your attention is directed to Section 103.20 of the Board's Rules and Regulations, a copy of which is enclosed. Section 103.20 provides that the Employer must post the Board's official Notice of Election at least three full working days before the election, excluding Saturdays and Sundays, and that its failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, D.C. 20570-0001. The request must be received by the Board in Washington by **July 21, 2000**.

Dated July 7, 2000

at Baltimore, Maryland

Regional Director, Region 5



1/ At the hearing, the parties amended the petition and formal papers to reflect the correct name of the Employer as Professional Baseball Umpire Corporation.

2/ Professional Baseball Umpire Corporation (the Employer) is an Indiana Corporation, which is engaged in the business of providing umpire crews to minor league games from leagues which are members of the National Association of Professional Baseball Leagues. The parties stipulated that during the past 12 months, a representative period, the Employer provided services valued at over \$50,000 directly to baseball leagues outside the State of Florida.

3/ The parties stipulated that Association of Minor League Umpires (the Union or Petitioner) is a labor organization within the meaning of Section 2(5) of the Act.

4/ The Petitioner and the Employer agree that the following unit of employees is appropriate for purposes of collective-bargaining:

All full-time and regular part-time umpires employed by the Employer at various locations throughout the United States and Canada excluding all other employees, guards and supervisors as defined in the Act.

There are approximately 220 employees in this unit, and there is no history of collective-bargaining.

The only dispute in this representation case involves the date, time and method of conducting the election. The Employer contends that the election should be a traditional on-site election and that a mail ballot election would be an inappropriate vehicle to use in holding an election for the petitioned-for unit of employees. The Petitioner stated on the record that it did not oppose a mail ballot election. The Employer employees individuals who perform umpiring services for minor league baseball clubs and in some instances it supplies substitutes for Major League ball clubs. The umpires employed by the Employer work 500 to 550 games per week and spend almost their entire time during the season from June to the end of August on the road travelling from stadium to stadium in various cities throughout the country. Typically, an umpire works 2, 3, or 4 games in each city and receives only 2 days off each month. The Employer contends that a mail ballot election is inappropriate because the employees are extremely difficult to reach because they spend almost the entire months of July and August moving from ball-park to ball-park umpiring games. According to the Employer, the umpires spend almost all of their time during these months in hotel rooms and at the ballparks and can not be reached at their homes. The Employer contends that any method of mail ballots during the time the umpires are away from home would require third party involvement that could result in a forgery.

Whether to conduct an election by mail is a discretionary matter the Board has entrusted to Regional Directors. The Board has consistently held that a Regional Director has broad discretion in arranging all the details of an election, including whether to conduct an election – in whole or in part – by mail. North American Aviation, Inc., 81 NLRB 1046 (1949); Southwestern

Michigan Broadcasting Company, 94 NLRB 30, 31, (1951); National Van Lines, 120 NLRB 1343, 1346 (1958); Shepard Convention Services, Inc., 314 NLRB 689 (1994). The Board's Casehandling Manual at Section 11336 describes circumstances considered in exercising this discretion. Accordingly, I shall exercise my discretion regarding the details of the election and in exercising that discretion I shall carefully consider the parties' positions and carefully examine the Employer's post-hearing brief.

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