

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

In the Matter of

FIRST TRANSIT, INCORPORATED

Employer¹

and

AMALGAMATED TRANSIT UNION,
LOCAL 22, AFL-CIO

Petitioner

Case 1-RC-22301

DECISION AND DIRECTION OF ELECTION²

The Employer is located in Framingham, Massachusetts, where it is engaged in the business of providing bus passenger transportation. The Petitioner seeks to represent a unit composed of all full time and regular part-time drivers, mechanic, part-time weekend dispatcher, bus cleaner, call takers, and customer service assistant employed by the Employer. The Employer would exclude from the unit (1) weekend dispatcher Debra

¹ The name of the Employer appears as corrected at the hearing.

² 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. In accordance with the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the Regional Director.

Upon the entire record in this proceeding, I find that: 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 in this matter; 3) the labor organization involved claims to represent certain employees of the Employer; and 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.

Brackett on the ground that she is a statutory supervisor (2) customer service assistant Denise LePage on the ground that she is a confidential employee, and (3) the call takers on the ground that they do not share a community of interest with other employees. There are approximately 35 employees in the petitioned-for unit, which includes all employees at this facility. There is no history of collective bargaining among the petitioned-for employees. I find that the petitioned-for unit is appropriate and I will include the weekend dispatcher/supervisor, the customer service assistant, and the call takers in the unit.³

Facts

The Employer's Operation

The Employer's chief operating officer is General Manager James Parker. Reporting to Parker is Safety and Training Manager Jack Callinan. Below Callinan are the following supervisors: Call Center Manager Tammy Da Silva, Maintenance Manager Brian Smith, Day Supervisor Theodore Mavrelion, and Night Supervisor Barthelmyr Pierre. In addition to the four individuals here at issue, the Employer employs 29 full-time and part-time drivers, one mechanic, and one bus cleaner.

Brackett's duties

Debra Brackett is the weekend dispatcher, and according to Parker, she is titled "weekend supervisor." Brackett was a part-time driver at the Employer until December 2008, when she moved into her current position. Brackett works only on Saturdays. The Employer operates three buses on Saturday, each driven by a part-time employee. During the day, Brackett primarily sits in the dispatcher's office and handles questions that come

³ Although the Petitioner did not specify at the hearing that it was seeking to include the call takers in the unit, it requested the inclusion of the call takers in the unit in its post-hearing position. The Employer was contacted by the Region during the period that briefs were due following the close of the hearing, and advised of this position. The Region asked the Employer to address the call takers in its post-hearing brief. Thereafter, at the close of the period for filing briefs, instead of filing a brief, the Employer filed a Motion To Dismiss and a request for a two week extension to the time for filing briefs to address the issue of the call takers. The Employer was granted a two day extension of time for the filing of briefs.

The Employer's Motion to Dismiss is based on an "improper accretion" to the petition on the ground that the original petition in this case did not specifically seek to include the weekend dispatcher/supervisor, customer service assistant, or call takers. The Employer asserts that the petition should be dismissed as "a ruse" and as "the beginning of a fishing expedition."

The Motion To Dismiss is hereby denied. It is not unusual for parties' positions to be clarified or to evolve at or after a hearing. The Employer had ample notice prior to the hearing and opportunity at the hearing to litigate the weekend dispatcher/supervisor and customer service assistant positions. Although the call taker position became clarified after the hearing, the Employer did not seek to re-open the record or vote the disputed employees subject to challenge.

in from the public or attends to a problem on a bus route. She has a computer system where she can monitor the location of the buses and if a bus goes off its route, she can direct it back to the proper route.

According to Parker's testimony at the hearing, on Saturdays Brackett is responsible for dispatching the three buses. The three Saturday drivers have set routes, however, so there is usually no need for Brackett to make any assignments. Should a driver call in to say that she/he is not going to report to work, Brackett is required to fill that route. In that event, Brackett consults a list of employees previously prepared by Parker, and simply starts at the top of the list and goes down the list until she finds an employee available to drive the route.⁴ If no one on the list is available, then Brackett is required to drive the route herself.⁵

When drivers report to work, they sign in on a sheet at Brackett's desk. They also sign that sheet when they are finished with the shift. Brackett herself also signs in and out, as do the Day Supervisor and the Night Supervisor.

Brackett has no role in hiring, discharging, or laying off employees.⁶ Parker testified that Brackett has authority to enforce the work rules on Saturdays. In this regard, he testified that she can discipline employees, issue oral and written reprimands, and suspend employees on Saturday without checking with him. For instance, Parker testified, if an employee is simply refusing to follow direction, Brackett has the authority to pull the employee off the road and suspend the employee. According to Parker, the Employer has a progressive disciplinary system and if an employee has a series of warnings it could affect employment status.⁷ Parker also testified that if an employee at the company receives discipline, he/she can appeal that discipline to Parker.

Parker testified that Brackett has never exercised the authority to reprimand since she has been in this position. Parker did describe one recent incident where Brackett received a complaint from a patron that a driver was not driving the proper route around a rotary at a mall. Brackett then confirmed this information on the computer and called the driver to make the correction. Thereafter, according to Parker, the driver complained to

⁴ The list is prepared by Parker based on the number of hours employees have had during the week, with the employees who have had the fewest hours during the week being the first called for weekend work when necessary.

⁵ According to Parker, all supervisors at the Employer must drive a route if necessary.

⁶ According to Parker, decisions to discharge are made by a Regional Vice-President located at another facility.

⁷ The Employer did not provide more detail on the progressive disciplinary policy. Parker testified that Brackett has the same authority as admitted supervisors such as Mavrelion, except of course there is more service on the weekdays and therefore the number of employees overseen by Mavrelion is greater.

him that he (the driver) thought that he had been driving properly. Parker then looked into the matter and told the driver that Brackett had done the right thing.

Parker testified that he relies on his supervisors for input on the performance of employees, so he would go to Brackett to ask questions about whether the weekend employees were functioning well. Brackett does not normally attend supervisory meetings, which are held once a week on weekdays.⁸

Brackett is paid on an hourly basis and receives two dollars an hour more than the drivers but two dollars an hour less than the two weekday supervisors. Parker and Da Silva are salaried, but all other supervisory personnel at the facility are paid on an hourly basis.

The genesis of Brackett's movement into her current position is as follows. Prior to December 2008, Steve Blasdell had been employed as a full-time driver during the week and as the Saturday supervisor. According to Parker, shortly after his arrival at the facility in November 2008, he decided that this division of duties was causing conflict with other drivers and supervisors so he determined to remove Blasdell from the Saturday supervisor position. There was a cut in pay for Blasdell at that time.

Blasdell himself testified at the hearing regarding the evolution of his position with the Employer. Blasdell testified that he originally was the Employer's afternoon supervisor in December of 2007.⁹ Thereafter, he became the trainer supervisor in the spring of 2008.¹⁰ Blasdell remained in that position until about October 2008 when Ron Chalet, Parker's predecessor as General Manager, made him the weekend supervisor. Although it is not clear from the record, it appears that Blasdell had statutory supervisory authority when he was the weekend supervisor, although he testified that he believes he had that authority based on his prior authority that remained from his position as trainer supervisor.

At the hearing Parker testified that he believed that he told Callinan to tell Brackett that she has supervisory authority, but Parker was not certain that Brackett had ever been informed of this authority. Blasdell testified that a few days prior to the hearing, he was told by Brackett that she believed that her duties only consisted of opening the doors, making sure the buses go out, and answering the phones.

⁸ Brackett attended one weekday supervisory meeting when she was at the facility for training on that particular day.

⁹ Blasdell and Parker appeared to use the term "afternoon supervisor" and "weekend supervisor" interchangeably.

¹⁰ In this capacity, Blasdell had hiring authority as well as disciplinary authority.

Facts Regarding Customer Service Assistant Denise LePage

Denise LePage is the customer service assistant. She reports to Parker.¹¹ Her duties consist of answering the phone calls from the public and preparing payroll. In this regard she has password protected access to the Employer's payroll system. She would be the employees' first point of contact on any questions concerning their timesheets and the correct entry of time data into the payroll system.

Parker testified that LePage does not assist or act in a confidential capacity to someone with labor relations responsibilities or determine management policies with regard to labor relations. LePage does not handle human resources or labor relations issues.

In addition to those duties for the Employer, for two hours a day LePage performs duties for the Employer's client, Metrowest Regional Transit Authority, although she is paid by the Employer during those hours. When performing these duties, LePage has access to certain financial information of the Authority dealing with grant applications. Parker testified that as LePage is not actually doing this work for him during those two hours a day, he does not really know what she is working on. Parker testified that the Authority had concerns about her knowledge of some of the financial background of the Authority in regard to the union campaign at the Employer.

Conclusion Regarding Unit Scope

Legal Standard

In deciding the appropriate unit, the Board first considers the union's petition and whether that unit is appropriate. *P.J. Dick Contracting*.¹² The petitioner's desires are relevant, but that does not obviate the need to demonstrate some community of interest. *Airco, Inc.*¹³ Congress expressly contemplated the plant-wide unit in Section 9(b), and the Board has held that a plant-wide unit is presumptively appropriate under the Act because a community of interest inherently exists among such employees. *Kalamazoo Paper Box Corp.*;¹⁴ *Animal Humane Soc.*¹⁵ The burden of proving that the interests of a given classification of employees are so disparate from those of others that they cannot be

¹¹ It appears that the call takers, who apparently take calls from the public, first report to Da Silva, who in turn reports to Parker.

¹² 290 NLRB 150 (1988).

¹³ [273 NLRB 348 \(1984\)](#).

¹⁴ 136 NLRB 134, 136 (1962).

¹⁵ 287 NLRB 50, 53 (1987).

represented in the same unit rests with the party challenging the unit's appropriateness, in this case the Employer. *Livingstone College*.¹⁶

It is true that the Board does not ordinarily include office clerical workers in a unit containing manual workers. See e.g. *Central Casket Company*.¹⁷ This policy has been applied most frequently where the office clerical workers differ from production workers by working in separate offices on administrative matters not directly related to production. *Broyhill & Associates*.¹⁸ However, there is no blanket statutory prohibition on the inclusion of office clerical employees in other units. *Charles Brunig & Co.*¹⁹ (call takers are included in a unit with other employees where they receive orders from customers and the orders are then passed on to service employees in the field). Thus, where, as here, the petitioner seeks to represent office clerical employees as part of an overall unit, and where no union seeks to represent them separately, they can be included. *Charles Brunig & Co.*,²⁰ *Great Atlantic and Pacific Tea Company*,²¹ *The Evening News*²² (business department clericals included in unit with composing, press and other departments where there are a small total number of employees and a high degree of integration); *Mid-Allegheny Corporation*²³ (payroll clerk Dorsey included in a unit of all employees of the employer, where other classifications included field engineers, draftsmen, and geologists).

Analysis

Here, there are additional factors that support the inherent community of interest of all the employees at the Employer's facility. The Employer's operation is small in terms of the number of total employees. Although it is not completely clear from the record, the Employer's operation appears to be integrated in that the call takers and administrative assistant receive calls that are passed on to the dispatchers or drivers.

All employees are subject to common Employer policies. Importantly, Parker has overall operational authority and retains control of day-to-day labor relations, including

¹⁶ 290 NLRB 304, 305 (1998).

¹⁷ 225 NLRB 362, 398 (1976).

¹⁸ 298 NLRB 707, 712 (1990).

¹⁹ 126 NLRB 140, 142 (1960).

²⁰ *Ibid.*

²¹ 119 NLRB 603, 606 (1957).

²² 308 NLRB 563, 567, (1992).

²³ 233 NLRB 1463, 1465 (1977).

the disciplinary process.²⁴ In these circumstances, and as the Petitioner is willing to represent them and as there is no other labor organization willing to represent them, I find that employees that appear to perform office clerical functions, such as the call takers and the customer service assistant, can appropriately be included in a unit with all other employees of the Employer at this facility.

Kennecott Copper Corp.,²⁵ cited by the Employer in its post-hearing brief, does not require a different result. In that unit clarification case, the employer operated an ore mine and reduction plant. The employer created a new classification, lime quarry equipment operator, that combined two former positions at the lime quarry near the reduction plant. The issue for the Board there was whether the new classification should be represented by the Steelworkers, who represented other employees at the reduction plant, or by the Machinists, who represented employees at an ore mine seven miles away. The Board concluded that the new classification was an accretion to the unit at the reduction plant. Although of course the Board examined community of interest factors in making this decision, the case otherwise has no bearing on the instant matter.

Conclusion regarding Brackett

Legal Standard

Pursuant to Section 2(11) of the Act, the term “supervisor” means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively recommend such action, where the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. To qualify as a supervisor, it is not necessary that an individual possess all of the powers specified in Section 2(11) of the Act. Rather, possession of any one of them is sufficient to confer supervisory status. *Chicago Metallic Corp.*²⁶

The Board has consistently applied the principle that authority effectively to recommend generally means that the recommended action is taken without independent investigation by superiors, not simply that the recommendation is ultimately followed. *Children’s Farm Home.*²⁷ The burden of proving supervisory status rests on the party alleging that such status exists. *NLRB v. Kentucky River Community Care.*²⁸ The Board

²⁴ Although the call takers may report directly to Da Silva, Parker retains overall control of the operation.

²⁵ 176 NLRB 96 (1969).

²⁶ 273 NLRB 1677 (1985), *enfd.* in relevant part 794 F.2d 527 (9th Cir. 1986).

²⁷ 324 NLRB 61 (1997).

²⁸ 121 S.Ct. 1861 (2001).

will refrain from construing supervisory status too broadly, because the inevitable consequence of such a construction is to remove individuals from the protection of the Act. *Chevron Shipping Co.*,²⁹ *Quadrex Environmental Co.*³⁰

In *Oakwood Healthcare, Inc.*,³¹ the Board refined its analysis of the terms “assign,” “responsibly direct,” and “independent judgment” in assessing supervisory status. The Board announced that it construes the term “assign” to refer to “the act of designating an employee to a place (such as a location, department, or wing), appointing an employee to a time (such as a shift or overtime period), or giving significant overall duties, i.e., tasks, to an employee.”³²

With respect to “responsible direction,” the Board explained in *Oakwood* that, if a person has “men under him” and if that person decides which job shall be undertaken or who shall do it, that person is a supervisor, provided that the direction is both “responsible” and carried out with independent judgment. For direction to be “responsible,” the person directing the oversight of the employee must be accountable for the performance of the task by the other. To establish accountability, it must be shown that the employer delegated to the putative supervisor authority to direct the work and take corrective action, if necessary. It also must be shown that there is a prospect of adverse consequences for the putative supervisor if he does not take these steps.³³

Finally, the Board held in *Oakwood* that to establish that an individual possesses supervisory authority with respect to any of the statutory functions, the individual must also exercise independent judgment in exercising that authority, which depends on the degree of discretion with which the function is exercised. “[T]o exercise independent judgment, an individual must at a minimum act, or effectively recommend action, free of the control of others and form an opinion or evaluation by discerning and comparing data.”³⁴ “[A] judgment is not independent if it is dictated or controlled by detailed instructions, whether set forth in company policies or rules, the verbal instructions of a higher authority, or in the provisions of a collective-bargaining agreement.”³⁵ The Board

²⁹ 317 NLRB 379, 381 (1995).

³⁰ 308 NLRB 101, 102 (1992).

³¹ 348 NLRB 686 (2006).

³² *Id.* at 689.

³³ *Id.* at 691-692.

³⁴ *Id.* at 693.

³⁵ *Id.* at 693.

also stated that the degree of discretion exercised must rise above the “routine or clerical.”³⁶

Analysis

I find, as set forth below, that the Employer has failed to meet its burden of demonstrating that Brackett possesses any of the indicia of supervisory status. The evidence does not support the Employer’s general, conclusory claims that Brackett has the authority to meaningfully reprimand employees, or exercises independent judgment in assigning and directing employees or has any meaningful role in evaluating employees.

Parker testified that Brackett has the authority to reprimand or suspend employees, but could not say with certainty that Brackett was even aware of this authority. Moreover, Parker testified that discipline issued by Brackett could be appealed to him, which raises the possibility that Parker would conduct an independent investigation of an incident and that any discipline issued by Brackett would not be effective. Indeed, with the short tenure of Brackett in her current position, the one incident cited by Parker is instructive. In that case, which was a mere route correction that did not even rise to the level of discipline, Parker still looked into the matter himself upon the request of the affected driver and came to his own conclusion about whether the direction offered by Brackett was correct or not. Such independent investigation of a personnel matter by Parker suggests that Brackett lacks true authority to recommend personnel actions.³⁷

It is true that the Board has found supervisory authority where newly appointed supervisors have not yet had an opportunity to exercise their authorities, but such a conclusion is only warranted when the employer clearly demonstrates that the supervisor possesses actual authority, even though it is not yet exercised. *See, e.g., Tesoro Petroleum*,³⁸ (supervisory status found where written memo accompanying promotions clearly stated that supervisors would have authority to hire and fire, as well as to use independent judgment in directing employees’ work; employees were notified in writing of the scope of the new supervisors’ authority; and employer made it clear to prospective supervisors that they would be held accountable for any performance problems of the employees whose work they oversaw.) Here, there is no such clarity in the Employer’s communication to Brackett or any other employee. Adding to the uncertainty is Parker’s

³⁶ *Id.* at 693.

³⁷ Board law is clear that clear unless the putative supervisor's actions result in an adverse personnel action without independent investigation or review by other supervisors, his or her recommendation or report is insufficient ground on which to find supervisory status. *Loyalhanna Health Care Associates*, 352 NLRB No. 105 (2008) (ALJD).

³⁸ 192 NLRB 354 (1971).

own testimony regarding the extent of his retained authority to independently investigate events and act as a driver's appeal.³⁹ As a result, I find that the Employer has not met its burden of establishing that Brackett has the authority to discipline, suspend or to effectively recommend such actions.

Additionally, although the Employer asserts that Brackett assigns and responsibly directs the three Saturday drivers, the evidence presented at the hearing demonstrates that she plays only a minor role in this regard, and that her limited role does not require the exercise of independent judgment. The Saturday drivers are assigned regular routes, and the only role Brackett has in the assignment of work is to select a substitute from a list of employees prioritized by Parker.⁴⁰ There is no evidence Brackett has the slightest discretion in this regard. Indeed, rather than have authority to require an employee to report to work, if no one is available Brackett must drive the route herself.⁴¹ Moreover, to the extent Brackett corrects routes or directs drivers, she does so by reference to a computer directed route. There is no evidence that Brackett exercises any independent judgment in doing so, and the fact that the Employer expects Brackett to correct routes based on the computer-generated or other efficiency does not establish authority under Section 2(11). Significantly, there is no evidence from which I may conclude that Brackett is accountable for the drivers' performance of the corrected routes that she directs them to drive.

Finally, although there is some record evidence that Parker would rely on Brackett's assessment of the weekend drivers' performance, the record contains no evidence of the impact of Brackett's input, no evidence of any connection to employee evaluations or wage increases, nor any evidence of any other ramification of her assessment. Indeed, it is not even clear from the record that Brackett's assessment plays any definitive role whatsoever in the appraisal or evaluation of any of the drivers, much less in any reward or promotion. It is well established that the ability to evaluate employees, without more, is insufficient to establish supervisory authority and that participation in the evaluation process confers supervisory authority only when there is evidence that evaluations affect employees' job status. *Mount Sinai Hospital*;⁴² *Arizona Public Service Co.*⁴³ Thus, the Employer has failed to demonstrate that Brackett uses

³⁹ See note 20 supra.

⁴⁰ The record does not reflect how often Brackett must search for as substitute driver.

⁴¹ Supervisor authority is not established where it is not demonstrated that the individual can compel an employee to report. *Golden Crest Healthcare*, 348 NLRB 727, 729 (2006).

⁴² 325 NLRB 1136 (1998).

⁴³ 310 NLRB 477, 480 (1993).

independent judgment, essential to a finding of supervisory status under Section 2(11), in connection with her performance of any of these tasks.⁴⁴

Conclusion as to LePage

Legal Standard and Analysis

The Employer contends that LePage should be excluded from the unit as a confidential employee.⁴⁵ A confidential employee is one who assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations. *NLRB v. Hendricks County Rural Electric Membership Corp.*;⁴⁶ *B.F. Goodrich Co.*⁴⁷ The burden of proving confidential status rests of the party asserting that such status exists. *Intermountain Electric Association.*⁴⁸

There is no evidence in the record that LePage either acts in a confidential capacity to Parker or fits that definition in any way. The Employer's contention that LePage should be excluded as a confidential employee because of her access to payroll records or similar data is insufficient to support such a finding. *E.C. Waste, Inc.*⁴⁹ (preparation of payroll, or maintaining absenteeism reports or other disciplinary matters is insufficient for confidential status); *RCA Communications, Inc.*⁵⁰

The Employer's claim that LePage should be excluded as a confidential employee because she has access to the financial information concerning one of the Employer's clients is also without merit. Indeed, access to financial information of an employer is insufficient for a finding of confidential status,⁵¹ so access to financial information of a client of an employer would be even less relevant to confidential status.

⁴⁴ As there is no evidence of statutory supervisory authority, any suggestive secondary criteria are insufficient to establish supervisory status. *St. Francis Medical Center – West*, 323 NLRB 1046, 1047(1997) (that employee Saito may be the “highest ranking employee on site” on Saturdays is insufficient to establish supervisory status where direction of others during those times is routine).

⁴⁵ The Employer did not take the position at the hearing or in its post-hearing brief that LePage should be excluded from the unit as an office clerical employee.

⁴⁶ 454 U.S. 170 (1981).

⁴⁷ 115 NLRB 72, 724 (1956).

⁴⁸ 277 NLRB 1, 6 (1985).

⁴⁹ 339 NLRB 262 (2003).

⁵⁰ 154 NLRB 34 (1965).

⁵¹ *Inland Steel Company*, 308 NLRB 868, 873-874 (1992). Mere possession of access to confidential business information by employees is not sufficient reason to deny such employees representation. *Fairfax Family Fund*, 195 NLRB 306, 307 (1972).

Accordingly, based upon the foregoing and the stipulations of the parties at the hearing, I find that the following employees of the Employer constitute a unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act:

All full time and regular part-time drivers, mechanic, bus cleaner, weekend dispatcher/supervisor, call takers, and customer service assistant employed by the Employer at its Framingham, Massachusetts facility, but excluding guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Regional Director among the employees in the unit 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 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. Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. 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, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date, and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for purposes of collective bargaining by Amalgamated Transit Union Local 22, AFL-CIO.

LIST OF VOTERS

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of the statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*,⁵² *NLRB v. Wyman-Gordon Co.*⁵³ Accordingly, it

⁵² 156 NLRB 1236 (1966).

⁵³ 394 U.S. 759 (1969).

is hereby directed that within seven days of the date of this Decision, two copies of an election eligibility list containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the Regional Director, who shall make the list available to all parties to the election. *North Macon Health Care Facility*.⁵⁴ In order to be timely filed, such list must be received by the Regional Office, Thomas P. O'Neill, Jr. Federal Building, Sixth Floor, 10 Causeway Street, Boston, Massachusetts, on or before March 6, 2009. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review this Decision and Direction of Election may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. This request must be received by the Board in Washington by March 13, 2009.

In the Regional Office's original correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file one of the documents which may now be filed electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. Guidance for E-filing can also be found on the National Labor Relations Board web site at www.nlr.gov. On the home page of the web site, select the **E-Gov** tab and click on **E-Filing**. Then select the NLRB office for which you wish to E-File your documents. Detailed E-filing instructions explaining how to file the documents electronically will be displayed.

/s/ Elizabeth A. Gemperline

Elizabeth A. Gemperline, Regional Director
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Dated at Boston, Massachusetts
this 27th day of February, 2009.

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⁵⁴ 315 NLRB 359 (1994).