

NOT INCLUDED IN
BOUND VOLUMES

LPH
Richmond, VA

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

CONSULATE HEALTH CARE d/b/a ASHLAND
NURSING & REHABILITATION CENTER

Employer

and

Case 5-RC-16580

UNITED FOOD AND COMMERCIAL WORKERS
INTERNATIONAL UNION, LOCAL 400

Petitioner

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered objections to an election held November 3, 2010, and the administrative law judge's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 31 for and 28 against the Petitioner, with 1 challenged ballot, an insufficient number to affect the results.

The Board has reviewed the record in light of the exceptions and briefs,¹ has adopted the administrative law judge's findings and recommendations to the extent set forth below, and finds that a certification of representative should be issued.

In adopting the judge's recommendation to overrule the objections, we emphasize that the Employer has failed to prove that any objectionable conduct

¹ The Employer has requested oral argument. The request is denied as the record, exceptions, and briefs adequately present the issues and the positions of the parties.

occurred during the critical period or that the alleged racially inflammatory conduct which occurred at a relatively remote time prior to that period had such a significant impact on the election as would warrant setting it aside.²

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for United Food and Commercial Workers International Union, Local 400, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All regular full-time and part-time CNAs, restorative aides, activity aides, and maintenance employees; Excluding all RNs, PRNs, dietary employees, office clerical employees, confidential employees, and guards and supervisors as defined in the Act.

Dated, Washington, D.C., May 31, 2011.

Wilma B. Liebman, Chairman

Mark Gaston Pearce, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

² Member Pearce would additionally find that even if the statements at issue had a significant impact on the election and could be attributed to the Union or its agents, they would not warrant setting the election aside under *Sewell* because the statements were protests against alleged race-based mistreatment and unfair working conditions. See *Coca-Cola Bottling Co.*, 273 NLRB 444, 445 (1984) (finding that regardless of the truth of the statements involved, “[t]he question of whether employees have been unfairly treated, for whatever reason, is always a legitimate topic of discussion in a union campaign”).

In the particular circumstances of this case, Chairman Liebman finds it unnecessary to also rely on the additional finding described by Member Pearce.

NOT TO BE INCLUDED IN
BOUND VOLUMES

LBP
Carol Stream, IL

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

BANNER SERVICES CORPORATION
Employer

and

TEAMSTERS LOCAL 705
Petitioner

Case 13-RC-21983

and

PRODUCTION WORKERS UNION OF
CHICAGO AND VICINITY, LOCAL 707
Intervenor

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

The National Labor Relations Board, by a three-member panel, has considered objections to an election held on November 11, 2010 and the hearing officer’s report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 2 for the Petitioner, 13 for the Intervenor, and 27 against the participating labor organizations, with no challenged ballots.

The Board has reviewed the record in light of the exceptions and briefs,¹ has adopted the hearing officer’s findings and recommendations,² and finds that a certification of results of election should be issued.

¹ In the absence of exceptions, we adopt pro forma the hearing officer’s recommendation that Intervenor’s Objection No. 1 be overruled.

² In finding that the Employer’s description of the 401(k) plan did not include an unlawful promise of a benefit, we emphasize the absence of any evidence that the Intervenor ever attempted to negotiate the inclusion of unit employees in the 401(k) plan.

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for Teamsters Local 705 or Production Workers Union of Chicago and Vicinity, Local 707, and that neither is the exclusive representative of these bargaining-unit employees.

Dated, Washington, D.C., May 25, 2011.

Wilma B. Liebman, Chairman

Craig Becker, Member

Mark Gaston Pearce, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

In its brief, the Intervenor asserts that the Employer promised an unlawful, additional benefit by stating, “Wouldn’t it make more sense to take the \$30 you are paying in union dues each month – \$360 per year – and put it in the 401(k) plan where it can grow, tax deferred, and have Banner add more money as a match?” There is no evidence in the record that this statement was a promise of a new or different benefit, nor is there any evidence employees could have reasonably viewed it as such. Rather, the Employer was simply noting that if employees put \$360 into the 401(k) plan, the Employer would make a matching contribution as provided for in the 401(k) plan.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

STEWARD CARNEY HOSPITAL, INC.
d/b/a CARNEY HOSPITAL, A CARITAS
FAMILY HOSPITAL

Employer

and

Cases 1-RC-22525

UNITED FEDERATION OF SPECIAL
POLICE & SECURITY OFFICERS, INC.
Petitioner

ORDER

Employer's Request for Review of the Regional Director's Decision and Direction of
Election is denied as it raises no substantial issues warranting review.

WILMA B. LIEBMAN,	CHAIRMAN
MARK GASTON PEARCE,	MEMBER
BRIAN E. HAYES,	MEMBER

Dated, Washington, D.C., May 18, 2011.

VOTING UNIT

**Employees of STEWARD CARNEY HOSPITAL, INC. d/b/a CARNEY HOSPITAL, A CARITAS FAMILY HOSPITAL
Dorchester, MA**

Those eligible to vote are all full-time and regular part-time security officers, security sergeants, and officers-in-charge, including per diems, employed by the Employer at its 2100 Dorchester Avenue, Dorchester, Massachusetts facility, who were employed during the payroll period ending Saturday, March 26, 2011, but excluding supervisors as defined in the Act.

DATE: Monday, April 25, 2011

TIME: 7:30 a.m. to 8:30 a.m. and 3:30 p.m. to 4:30 p.m.

PLACE: Employer's Premises-Cushing Auditorium

BALLOTS WILL BE COUNTED BY THE BOARD AGENT AFTER THE POLLS CLOSE AT 4:30 P.M.

	<p>UNITED STATES OF AMERICA National Labor Relations Board</p>	
<p>OFFICIAL SECRET BALLOT For certain employees of STEWARD CARNEY HOSPITAL, INC. d/b/a CARNEY HOSPITAL, A CARITAS FAMILY HOSPITAL Dorchester, MA</p>		
<p>Do you wish to be represented for purposes of collective bargaining by - UNITED FEDERATION OF SPECIAL POLICE & SECURITY OFFICERS, INC.?</p>		
<p>MARK AN "X" IN THE SQUARE OF YOUR CHOICE</p>		
<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>	

DO NOT SIGN THIS BALLOT Fold and drop in ballot box.
If you spoil this ballot return it to the Board Agent for a new one.

The National Labor Relations Board does not endorse any choice in this election.
Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CALIBER MOTORS, INC.,
d/b/a MERCEDES BENZ OF ANAHEIM
Employer

and

Case 21-RC-21275

INTERNATIONAL ASSOCIATION
OF MACHINISTS AND AEROSPACE
WORKERS, LOCAL LODGE 1484,
DISTRICT LODGE 190, IAMAW,
AFL-CIO

Petitioner

ORDER

Employer's Request for Review of the Regional Director's Decision and
Direction of Election is denied as it raises no substantial issues warranting review.

WILMA B. LIEBMAN, CHAIRMAN

MARK GASTON PEARCE, MEMBER

BRIAN E. HAYES, MEMBER

Dated, Washington, D.C., May 18, 2011.

VOTING UNIT

21-RC-21275

INCLUDED: All full-time and regular part-time automotive technicians, including team leaders and the express service team, employed by the Employer at Mercedes-Benz of Anaheim located at 5395 East La Palma Avenue, Anaheim, California, during the payroll period ending Friday, April 15, 2011.

EXCLUDED: All other employees, managers, office clerical employees, guards and supervisors, as defined in the Act.

DATE, HOURS, AND PLACE OF ELECTION

DATE: Thursday, May 19, 2011

HOURS: 10:00 a.m. to 11:00 a.m.

PLACE: In the Tool Room at the Employer's facility located at 5395 East La Palma Avenue, Anaheim, California.



UNITED STATES OF AMERICA
National Labor Relations Board



OFFICIAL SECRET BALLOT

For certain employees of
CALIBER MOTORS, INC., d/b/a
MERCEDES-BENZ OF ANAHEIM

Do you wish to be represented for purposes of collective bargaining by –

**INTERNATIONAL ASSOCIATION OF MACHINISTS
AND AEROSPACE WORKERS, LOCAL LODGE 1484,
DISTRICT LODGE 190, IAMAW, AFL-CIO**

MARK AN "X" IN THE SQUARE OF YOUR CHOICE

YES

NO

**DO NOT SIGN THIS BALLOT. Fold and drop in ballot box.
If you spoil this ballot return it to the Board Agent for a new one.**

The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.

NOT TO BE INCLUDED
IN BOUND VOLUMES

BPH
Franklin Park, IL

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

RUAN TRANSPORT COMPANY
Employer

and

TEAMSTERS, LOCAL 705, AFFILIATED
WITH THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS
Petitioner

Case 13-RC-21909

and

TEAMSTERS, LOCAL 710, AFFILIATED
WITH THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS
Intervenor

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered determinative challenges in a mail ballot election commencing on May 14, 2010, and the hearing officer's report recommending disposition of them. The tally of ballots shows 14 for the Petitioner, 14 for the Intervenor, with 2 challenged ballots, a sufficient number to affect the results.

The Board has reviewed the record in light of the exceptions and briefs and has adopted the hearing officer's findings and recommendations,¹ and finds that a certification of representative should be issued.

¹ In the absence of exceptions, we adopt pro forma the hearing officer's recommendation to sustain the challenge to the ballot of Jose McDougall, Jr.

We agree with the hearing officer that Board's Exhibit 2, a ballot challenged on the basis that it had been irregularly marked, should be counted because it clearly expresses the voter's intent to cast a vote for the Petitioner. Accordingly, the revised tally of ballots shows 15 for the Petitioner and 14 for the Intervenor, with no remaining challenged ballots. Because the revised tally of ballots shows that a majority of ballots have been cast for the Petitioner, we shall certify the Petitioner as the bargaining representative of the unit employees.

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for Teamsters, Local 705, affiliated with the International Brotherhood of Teamsters, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:²

All full-time and regular part-time truck drivers and warehouse spotters/drivers employed by the Employer based at Castle Metal facility currently located at 3400 North Wolf Road in Franklin Park, IL; excluding all dispatchers, supervisors, clerical, security personnel and professionals as defined in the Act.

Dated, Washington, D.C., November 30, 2010

Craig Becker, Member

Mark Gaston Pearce, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

² In her unit description, the hearing officer inadvertently included information concerning voting eligibility dates. The unit description here thus excludes that information.

NOT TO BE INCLUDED
IN BOUND VOLUMES

PBH
Cleveland, OH

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

THE GEIST COMPANY
Employer

and

Case 8-RC-17056

SHEET METAL WORKERS INTERNATIONAL
ASSOCIATION LOCAL #33, AFL-CIO
Petitioner

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board has considered an objection to an election held on August 10, 2011, and the Regional Director's report recommending disposition of it. The election was conducted pursuant to a Stipulated Election Agreement. The revised tally of ballots shows 6 for and 5 against the Petitioner.¹

The Board has reviewed the record in light of the exceptions and brief, and has adopted the Regional Director's findings and recommendations, and finds that a certification of representative should be issued.

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for Sheet Metal Workers International Association Local #33, AFL-CIO, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

¹ The original tally of ballots showed one challenged ballot, which was sufficient to affect the results of the election. On August 23, 2011, the parties agreed in writing that the challenged voter was ineligible to vote. The Regional Director approved the parties' agreement and issued a revised tally of ballots.

All full-time and regular part-time sheet metal workers, installers, helpers, laborers, truck drivers, and any other employees who fabricate and install roofing and architectural sheet metal employed by the Employer at its 1615 Merwin Avenue, Cleveland, Ohio location, but excluding all sales employees, installation managers, service managers, estimators, office clerical employees and all professional employees, guards and supervisors as defined in the Act.

Dated, Washington, D.C., December 1, 2011.

Mark Gaston Pearce, Chairman

Craig Becker, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

NOT INCLUDED IN
BOUND VOLUMES

LBH
Salem, NJ

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

SALEM HOSPITAL CORPORATION a/k/a
THE MEMORIAL HOSPITAL OF SALEM
COUNTY

Employer

and

Case 4-RC-21697

HEALTH PROFESSIONALS AND ALLIED
EMPLOYEES (HPAE)

Petitioner

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered objections to an election held September 1 and September 2, 2010, and the administrative law judge's decision recommending disposition of them.¹ The election was conducted pursuant to a Decision and Direction of Election. The tally of ballots shows 73 ballots for and 48 against the Petitioner, with no void ballots and 21 challenged ballots, an insufficient number to affect the results.

¹ On February 22, 2011, the Board issued an Order in this proceeding ruling that the Employer's Objections 1-16 did not raise substantial and material factual issues that would warrant a hearing. On March 8, 2011, the Employer filed a motion for reconsideration of that Order. The Employer's motion is denied as it fails to raise any issues warranting reconsideration by the Board.

The Board has reviewed the record in light of the exceptions and briefs,² has adopted the judge's findings³ and recommendations, and finds that a certification of representative should be issued.

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for Health Professionals and Allied Employees (HPAE), and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time, regular part-time, and per-diem Registered Nurses, including Staff Nurses, Case Managers, and Charge Nurses, employed by the Employer at The Memorial Hospital of Salem County located at Woodstown Road, Salem, New Jersey, excluding all other employees, managers, guards, and supervisors as defined in the Act.

² The Employer filed 20 objections, but withdrew Objection 17 before the hearing. The Employer excepted to the judge's recommendations to overrule Objections 1 through 16 and Objections 18 through 20.

³ In adopting the judge's recommendations, we do not rely on his statement that the Employer was obliged to present testimony by the Board agent who conducted the election to establish misconduct by her. In any event, on its face, the Board agent's conduct clearly was not objectionable. Indeed, Chairman Liebman and Member Becker find the entirety of the Employer's exceptions wholly baseless. As in *C&G Heating and Air*, 356 NLRB No. 133, slip op. at 2 fn.5 (2011), Member Hayes finds no need at this stage of Board representation case proceedings to characterize the relative strength, or lack thereof, in argument made and evidence adduced in support of the exceptions.

Dated, Washington, D.C., August 3, 2011

Wilma B. Liebman, Chairman

Craig Becker, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

UNIFIRST CORPORATION
Employer

and

Case 5-RC-15052

TEAMSTERS LOCAL UNION NO. 570 a/w
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, AFL-CIO
Petitioner

ORDER

Employer's Request for Review of the Regional
Director's Decision and Direction of Election is denied as
it raises no substantial issues warranting review.¹

JOHN C. TRUESDALE,	CHAIRMAN
WILMA B. LIEBMAN,	MEMBER
PETER J. HURTGEN,	MEMBER

Dated, Washington, D.C., August 16, 2000.

¹ In denying review, we note that the Employer showed no prejudice in the Hearing Officer's decision, affirmed by the Regional Director, that no post-hearing briefs would be accepted. Further, the Employer fully presented its arguments in its Request for Review, which we have carefully considered.