

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5

CHENEGA INFINITY, LLC

Employer

and

Case 05-RC-297482

INTERNATIONAL UNION, SECURITY, POLICE
AND FIRE PROFESSIONALS OF AMERICA (SPFPA)

Petitioner

and

LAW ENFORCEMENT OFFICERS SECURITY UNIONS, LEOSU-DC, A/W LAW
ENFORCEMENT OFFICERS SECURITY & POLICE BENEVOLENT ASSOCIATION
(LEOS-PBA)

Intervenor

DECISION OVERRULING OBJECTION AND
CERTIFICATION OF REPRESENTATIVE

Pursuant to a petition filed by International Union, Security, Police and Fire Professionals of America (SPFPA) (the Petitioner) on June 13, 2022¹, and pursuant to a Stipulated Election Agreement² approved on July 6, a secret-ballot election was conducted to determine whether a unit of certain employees of Chenega Infinity, LLC (the Employer) desire to be represented for

¹ All dates listed herein are in 2022 unless otherwise specified.

² The unit description is as follows: “All full-time and regular part-time armed security officers and sergeants employed by the Employer at the Transportation Security Administration facilities currently located at 6595 Springfield Center Drive, Springfield, Virginia; 13555 EDS Drive, Herndon, Virginia; 132 National Business Parkway, Annapolis Junction, Maryland; and 3701 West Post Office Road, Arlington, Virginia; but excluding all project managers, captains, lieutenants, office-clerical employees, managerial employees, supervisors as defined by the Act, and all other employees.”

purposes of collective bargaining by the Petitioner; or by Law Enforcement Officers Security Unions, LEOSU-DC, a/w Law Enforcement Officers Security & Police Benevolent Association (LEOS-PBA) (the Intervenor); or by neither labor organization. Under the Region's supervision, the ballots were mailed on July 25, and a Tally of Ballots was issued on August 15³ with the following results:

Approximate number of eligible voters	145
Number of Void ballots	2
Number of Votes cast for Petitioner	31
Number of Votes cast for Intervenor	13
Number of Votes cast against participating labor organizations	0
Number of Valid votes counted	44
Number of Challenged ballots	0
Number of Valid votes counted plus challenged ballots	44

Challenged ballots were not sufficient in number to affect the results of the election, as there were none. A majority of the valid votes counted were cast for the Petitioner.

On August 22, the Intervenor timely filed objections to conduct it alleges affected the results of the election.⁴

THE INTERVENOR'S OBJECTION

Objection: The voter list that the Employer served on the parties failed to comply with the requirements of 29 C.F.R. §102.62(d) and with the Corrected Stipulated Election Agreement as it did not include contact information to include work emails [sic] addresses and home and cell phone numbers for eligible voters. This is objectionable conduct.

³ No representative for the Intervenor was present at the ballot count to receive the Tally of Ballots. A copy of the Tally of Ballots was issued to the Intervenor on August 18.

⁴ The petition was filed on June 13. Accordingly, I will only consider the alleged interference which occurred during the critical period which begins on and includes the date of the filing of the petition and extends through the election. *Goodyear Tire and Rubber Company*, 138 NLRB 453 (1962).

In support of the Objection, the Intervenor provided a copy of the Stipulated Election Agreement as well as the Voter List that counsel for the Employer served on the parties to this case and the Region on July 7. The Voter List includes a column entitled “Email” which lists a singular email address for each employee. However, it does not specify whether the email address listed is the employee’s work email or personal email. The Voter List also includes a column entitled “Phone Number” which lists a singular phone number for each employee. However, it does not specify whether this phone number is the employee’s home or cellular “cell” phone number.

The Objection is insufficient to set aside the election. Section 102.62(d) of the Board’s Rules and Regulations, as amended, states, in relevant part:

(d) Voter List. Absent agreement of the parties to the contrary specified in the election agreement or extraordinary circumstances specified in the direction of election, within 2 business days after the approval of an election agreement pursuant to paragraphs (a) or (b) of this section or issuance of a direction of election pursuant to paragraph (c) of this section, the employer shall provide to the Regional Director and the parties named in the agreement or direction a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular (“cell”) telephone numbers) of all eligible voters.....

The Stipulated Election Agreement in this matter, approved on July 6, states, in relevant part:

VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters.

With respect to the first portion of Objection, there is no requirement for the Employer to provide work email addresses in either Section 102.62(d) of the Board’s Rules and Regulations,

as amended, or the Stipulated Election Agreement in this matter. In its final rule, the Board recognized that the “[R]ule does *not* require the employer to furnish . . . the work email addresses . . . of eligible voters.”⁵ Accordingly, the first portion of the Objection is insufficient to set aside the results of the election.

Concerning the second portion of the Objection, neither Section 102.62(d) of the Board’s Rules and Regulations, nor the Stipulated Election Agreement in this matter, can be read to require the Employer include both home and cell phone numbers in the Voter List lest it commit objectionable conduct; rather, the Employer is required to supply both employee home and cell phone numbers *only if* the Employer maintains both those types of numbers. In its final rule, the Board acknowledged “...the amendments merely require an employer to furnish its employees’ ‘available personal email addresses’ (and ‘available home and personal cellular (‘cell’) telephone numbers’). Accordingly, if the employer does not maintain those addresses and numbers, it does not need to ask its employees for them.”⁶ Although it is unclear whether the phone number provided on the Voter List is the employee’s home or cell phone number, the key point is that the Intervenor has presented no evidence to suggest that the Employer maintains *both* home and cell phone numbers of employees; it simply seems to presume that the Employer does so. This presumption is insufficient to conclude the Employer has failed to comply with the requirements of Section 102.62(d) of the Board’s Rules and Regulations or the Stipulated Election Agreement in this matter.

In sum, I conclude that the alleged objectionable conduct is not grounds for setting aside the election in this matter.

⁵ Representation-Case Procedures, 79 Fed. Reg. 74308, 74336 (Dec. 15, 2014)

⁶ Representation-Case Procedures, 79 Fed. Reg. 74308, 74338 (Dec. 15, 2014), fn. 146.

SUMMARY

The Intervenor's Objection is overruled in its entirety, and I hereby issue the following:

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots has been cast for International Union, Security, Police and Fire Professionals of America (SPFPA), and that it is the exclusive collective bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time armed security officers and sergeants employed by the Employer at the Transportation Security Administration facilities currently located at 6595 Springfield Center Drive, Springfield, Virginia; 13555 EDS Drive, Herndon, Virginia; 132 National Business Parkway, Annapolis Junction, Maryland; and 3701 West Post Office Road, Arlington, Virginia; but excluding all project managers, captains, lieutenants, office-clerical employees, managerial employees, supervisors as defined by the Act, and all other employees.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.69(c)(2) of the Board's Rules and Regulations, any party may file with the Board in Washington, DC, a request for review of this Order. The request for review must conform to the requirements of Sections 102.67(e) and (i)(1) of the Board's Rules and must be received by the Board in Washington by **September 29, 2022**. If no request for review is filed, the Order is final and shall have the same effect as if issued by the Board.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or

why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director.

A certificate of service must be filed with the Board together with the request for review.

Dated at Baltimore, Maryland, this 15th day of September, 2022.

(SEAL)

/s/ Sean R. Marshall

Sean R. Marshall, Regional Director
National Labor Relations Board, Region 05
Bank of America Center, Tower II
100 S. Charles Street, Ste. 600
Baltimore, MD 21201

Enclosure: Copies of Objections and Attachments to Objections