

Montgomeryville, PA

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SONOCO PROTECTIVE SOLUTIONS
Employer

and

Case 04-RC-128714

LABORERS LOCAL 332
Petitioner

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered objections to an election held June 26, 2014, and the Regional Director's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 19 votes cast for and 17 against the Petitioner, with no challenged ballots.

The Board has reviewed the record in light of the exceptions and briefs, 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 Laborers Local 332, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full time production employees, maintenance employees and shipping and receiving employees employed by the Employer at its 161 Corporate Drive, Montgomeryville, Pennsylvania facility; excluding all other

employees, including production line leads, office clerical employees, laboratory employees, seasonal employees, and guards and supervisors as defined in the Act.

Dated, Washington, D.C., December 15, 2014.

Mark Gaston Pearce, Chairman

Kent Y. Hirozawa, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

MEMBER MISCIMARRA, concurring:

For two reasons, I find there is no merit in the Employer's request for review and exceptions to the Regional Director's report and recommendation. First, regarding Objections 1, 2 and 3, the Employer assertedly received a report of alleged threats to certain Asian employees that, for example, if the Union won the election, and if certain employees failed to vote for the Union, the Union would have those employees fired. However, the Employer refused to convey to the Region the name or names of the employee(s) who allegedly reported the threat. Further, the Region was given neither the names of the employees to whom the threatening statement was allegedly made, nor the name or names of the alleged Union supporter(s) who allegedly made the threats. The Act protects employees from restraint or coercion, and such misconduct may be objectionable conduct that is grounds for overturning an election; but the Region cannot conduct a meaningful investigation unless, at a minimum, it is given the names of potential witnesses or at least the names of individuals who can identify potential

witnesses. At least some of this information was available to the Employer, which, on the basis of promises of confidentiality, declined to provide that information. While I am sympathetic to employee fears regarding potential retaliation or threats, the Region and the Board cannot conduct a meaningful investigation or act upon allegations of misconduct without this basic information. See, e.g., *Heartland of Martinsburg*, 313 NLRB 655 (1994) (“The Employer here submitted counsel’s hearsay description of alleged objectionable conduct and the names of witnesses who could provide direct testimony about it. This was sufficient information to warrant a full investigation of the issues raised in the objections.”); *The Holladay Corporation*, 266 NLRB 621, 622 (1983) (“[B]y identifying two employees who allegedly received improper inducements to support the Petitioner, the Employer has furnished the kind of evidence necessary for the Region to proceed with a full investigation of the objections.”); *Cities Service Oil Co.*, 77 NLRB 853, 857 (1948) (“[W]e consider as crucial, in making an investigation of preelection interference, that we have the names of witnesses upon whom the moving party relies. Absent that information, the Board is unable adequately to investigate the matter.”). See also NLRB Casehandling Manual (Part Two) Representation Sec. 11392.6. Second, I find that Objection 4 (regarding a hand gesture by one employee observed by another employee outside but in the vicinity of the polling area, which the latter employee interpreted as “someone was trying to tell me to vote ‘yes’”) is without merit for the reasons articulated by the Regional Director.

Dated, Washington, D.C., December 15, 2014.

Philip A. Miscimarra, Member

NATIONAL LABOR RELATIONS BOARD