

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Region 2**

**THE TRUSTEES OF COLUMBIA  
UNIVERSITY IN THE CITY OF  
NEW YORK,**

**Employer,**

**-and-**

**GRADUATE WORKERS OF  
COLUMBIA-GWC, UAW.**

**Petitioner.**

**Case No. 02-RC-143012**

**STATEMENT OF OBJECTIONS TO CONDUCT OF THE ELECTION AND  
CONDUCT AFFECTING RESULTS OF THE ELECTION**

Pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board, The Trustees of Columbia University in the City of New York file the following objections to conduct of the election and conduct affecting the results of the election held in the above-captioned matter on December 7 – 8, 2016:

1.       Seventy three percent of all eligible voters were supposed to vote at Earl Hall where, on both days of the election, voters were forced to pass known Union agents within 100 feet of the polling place during the final minutes before they cast their vote. On December 7 and 8, 2016, a number of known Union agents, including the Local President, Maida Rosenstein, sat in the foyer on the second floor of Earl Hall, the only polling place on Columbia's Morningside Campus. The Union agents' location was less than 100 feet from the entrance to the Earl Hall auditorium, the polling place on the Third Floor. The Union agents' presence within 100 feet of

the polling place, in a location that voters were forced to pass to access the polls, and their conversations with eligible voters, improperly coerced a substantial portion of eligible voters and destroyed the laboratory conditions necessary for an election. See *Nathan Katz Realty, LLC v. N.L.R.B.*, 251 F.3d 981, 993 (D.C. Cir. 2001) (“a party engages in objectionable conduct sufficient to set aside an election if one of its agents is continually present in a place where employees have to pass in order to vote”); *Milchem, Inc.*, 170 NLRB 362 (1968) (“The final minutes before an employee casts his vote should be his own, as free from interference as possible.”).

2. Identifiable Union supporters engaged in surveillance and created the impression of surveillance for voters entering and exiting Earl Hall. On December 7, 2016, a crowd of Union supporters stood at the front steps of Earl Hall. The supporters set up a camera on a tripod right in front of the entrance to Earl Hall. The supporters also handed out Union stickers and promoted the Union in the election. All eligible voters had to use these steps to enter the polling place, and the base of the steps is less than 100 feet from the entrance to the polling place. The surveillance or impression of surveillance on up to 73% of all eligible voters could have had an impact on the election by instilling a reasonable fear of voting against the Union. See *In Re Nathan Katz Realty, LLC*, 29-CA-23280, 2002 WL 1883790 (Aug. 12, 2002) (“The question to be determined is whether the evidence established that the Union representatives engaged in unlawful surveillance by its conduct of observing employees leaving or entering the polling place. In that regard, the issue is whether that conduct is deemed to have a reasonable tendency to coerce employees.”).

3. The Region’s eleventh-hour reversal of its original decision that Columbia or government issued identification would be required to vote improperly allowed ineligible voters

to vote and forced potentially eligible voters to vote under challenge. In a conference call on November 21, 2016 to discuss logistics for the election, the Region, Union and Employer agreed that either an employer issued ID or government ID would be required to vote. Columbia viewed this as an agreement regarding the "identifying information to be utilized by voters" in accordance with Section 11312.4 of the NLRB Casehandling Manual. The Region reversed this decision at 11:23 AM on December 6, less than 24 hours before the election began, stating that "voter ID will not be a requirement in order to vote." The Region noted, however, that ID could be "encouraged." The Region changed course yet again at approximately 3:30 PM on Wednesday, December 7, 2016. At that time, Board Agents at Earl Hall informed Employer's Observers that they could no longer request IDs to verify the spelling of a voter's name, contravening the Region's ruling from the day before that IDs could be "encouraged." These untimely and confusing reversals undoubtedly had an effect on the election, and in all likelihood allowed possibly numerous ineligible individuals to vote, and forced potentially eligible voters to vote under challenge. This circumstance was exacerbated by the fact that many students have a similar or the same last name. At least one prospective voter who came to vote at Earl Hall was informed that his name had already been checked off on the eligibility list as having voted at that location. Another student's name was checked off as having voted at Earl Hall; but the same student's name appeared on a challenged ballot at another location. Because of the improper reversal so close to the election, Employer's Observers did not challenge all individuals who could not show IDs, and Board Agents pressured Observers not to request IDs. These actions have created serious cause for concern as to what the vote count would have been— and how many more challenges there would have been — if the Board had not reversed its original decision. Had ID been required, as

originally agreed upon, there would surely have been additional challenges, and there is a reasonable likelihood that the challenges would have been dispositive. The failure to request IDs, followed by the subsequent ban on requesting identification, allowed ineligible voters to vote, forced potentially eligible voters to vote under challenge, and prevented valid challenges from being raised, all of which it is reasonable to assume had an impact on the outcome of the election.

4. A non-supervisory employee serving as an Observer was ordered to leave by a Board Agent in front of voters in the polling place, which may have unlawfully prejudiced prospective voters against the Employer. On December 7, 2016, Tshaye Meaza was scheduled to serve as an Employer Observer from 12 – 2 PM at Earl Hall. Meaza is an Assistant Director for Finance and Planning in the Provost's Office. Meaza pays vendors, transfers funds to departments, and performs accounting duties. Meaza does not oversee employees, and does not supervise any Research Assistants, Teaching Assistants, or any other students with appointments. The Board Agent, after asking Meaza her title, told Meaza that she did not want Meaza serving as an Observer because Meaza was a supervisor. The Board Agent spoke to Patricia Catapano, the Associate General Counsel of Columbia, and told Catapano that she would rather have Catapano as an observer, and dismissed Meaza. This dismissal of an Employer Observer occurred in front of eligible voters at the Earl Hall polling place, potentially prejudicing voters against the Employer by creating a false impression that the Employer was surveilling the polling place. This false accusation destroyed the laboratory conditions necessary for an election and is reasonably likely to have had an impact on the outcome of the election.

5. On December 7, 2016, the Board Agent closed the doors to the polling place at Columbia University Medical Center, which prevented eligible voters from voting in the

election. 397 voters were eligible to vote at Columbia University Medical Center. When asked by both the Employer and Union Observers to open the doors so as not to confuse prospective voters, the Board Agent refused until prior votes had been processed. Closing the doors to the polling place may have contributed to eligible voters not voting and destroyed the laboratory conditions necessary for a free and fair representation election. See *Whatcom Security Agency*, 258 NLRB 985 (1981) (setting aside the election because inadvertently locking the doors of the polling area may have contributed to some employees not voting); *Kerona Plastics Extrusion Company*, 196 NLRB 1120 (1972) (setting aside election and holding that “laboratory conditions have been disturbed” where polls were closed 20 minutes early).

6. On December 7, 2016, the Board Agent at Columbia University Medical Center turned away many prospective voters after running out of challenge ballot envelopes. The Board Agent informed prospective voters who were not on the list for that polling place that they were not allowed to cast a vote at that time, and more challenge envelopes did not arrive until mid-afternoon. These actions could have affected the outcome of the election.

7. Together or separately, these objections identify conduct which could have affected the results of the election. See *Cambridge Tool & Mfg. Co.*, 316 NLRB 716 (1995) (ordering that election can be set aside where the objectionable conduct “could well have affected the outcome of the election”). The number of “Yes” votes exceeded the number of “No” votes and challenged ballots by 332, which represents just 11.5% of total votes cast and 7.8% of eligible voters – many of whom may well have been deterred from voting by the objectionable conduct. As a result, eligible voters have been interfered with, coerced, and restrained in the exercise of their Section 7 rights, and the “laboratory conditions” required for a free and fair election were not

preserved.

WHEREFORE, the Regional Director should set aside the results of the election and direct that a new election be held in which the eligible voters can decide, in an atmosphere free from improper conduct, whether they wish to be represented for purposes of collective bargaining by the Petitioner.

Dated: New York, New York  
December 16, 2016

Respectfully submitted,



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**Date of Filing: December 16, 2016**

**AFFIDAVIT OF SERVICE OF:** Objections to Election from The Trustees Of Columbia University In The City Of New York

I hereby certify that, on the 16<sup>th</sup> day of December 2016, I served the above-entitled document(s) upon the Regional Director via the National Labor Relations Board's E-Filing Program.

Dated: December 16, 2016

  
Yonatan L. Grossman-Boder