

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 18**

In the Matter of:

TRUSTEES OF GRINNELL COLLEGE

Employer,

and

UNION OF GRINNELL STUDENT
DINING WORKERS

Petitioner

Case No. 18-RC-228797

December 17, 2018

PETITIONER'S STATEMENT IN SUPPORT OF WITHDRAWAL REQUEST

The Union of Grinnell Student Dining Workers ("Petitioner") files this statement in support of its December 13, 2018 and December 14, 2018 requests for withdrawal (the latter, "Request") of its pending petition 18-RC-228797 ("Petition"). The Trustees of Grinnell College ("Employer") has indicated to the Petitioner and to the Region that it welcomes this withdrawal request. Since the parties both wish for the Petition to be withdrawn, and for the reasons set forth below, the Request should be approved.

Procedural History

On October 8, 2018, the Petitioner filed the Petition with Region 18 of the Board seeking a unit of certain employees of the Employer. A pre-election hearing was held on October 17 and 18, 2018, and the Regional Director ("RD") issued a Decision and Direction of Election on November 5, 2018, directing an election on November 27, 2018. On November 19, 2018, the

Employer moved to stay of the election, or, in the absence of a stay, to impound all ballots at the conclusion of the election. The Board did not rule on the Employer's motion before the November 27, 2018 election, mooting it. On November 27, 2018, the election was conducted and ballots were tallied, with 366 employees voting, 274 for the Petitioner, 54 against, and 38 under challenged ballot. No timely objections to the election were filed. On December 6, 2018, the Petitioner was certified. On December 7, 2018, the Employer filed a request for review of the decision and direction and election ("RFR"), and on December 10, 2018, the Employer re-filed its RFR with updated tables of contents and authorities. On December 13, 2018, the Petitioner sent a letter to the RD requesting the withdrawal of the Petition. On December 14, 2018, after a request from the Region, the Petitioner again requested withdrawal of the Petition, and provided the reasoning for its request.

Argument

I. The Petitioner and the Employer both wish for the Board not to have jurisdiction in this matter.

The Board's Rules and Regulations grant the RD the sole authority to grant withdrawal of a pending Petition before its transfer to the Board: "Prior to the transfer of the record to the Board, the petition may be withdrawn only with the consent of the Regional Director with whom such petition was filed." 29 C.F.R. § 102.60(a). However, the Board's casehandling manual also provides guidance on this subject, providing that "the regional director's general policy should favor the effectuation of a petitioner's genuine voluntary desire to terminate the proceeding." NLRB Casehandling Manual (Part Two) Representation Proceedings Sec. 11110. The Board reaffirmed this "general approach" in *Transportation Maintenance Services*. See 328 NLRB 691 (1999). Here, the Petitioner has made clear in its Request its genuine voluntary desire

to withdraw the Petition.

It is almost self-evident that, in a dispute between two parties, when the underlying issue of the dispute is mooted, there is no reason for the arbiter of the dispute to make a decision or otherwise remain involved. Here, the Petitioner has stated that it “does not want the Board to invoke jurisdiction in this matter.” Request. The Employer has consistently argued that the Board does not have jurisdiction, arguing in its RFR that the RD erred in her analysis, and should have issued a “finding that the petition fails to raise a ‘question concerning representation’ of employees within the meaning of the Act,” i.e., that the Board does not have jurisdiction. RFR at 6. Clearly, neither the Petitioner nor the Employer wishes for the Board to exercise jurisdiction. Consequently, the underlying issue is moot, and the RD should grant the Petitioner’s Request and refrain from asserting further jurisdiction.

II. The Request and the Petitioner’s conduct raise no issues which could be grounds for denying the Request.

Generally, the Board has held that the withdrawal request should be denied if it is accompanied by action with which it is inconsistent, such as a recognitional strike or picket. NLRB Casehandling Manual (Part Two) Representation Proceedings Sec. 11110. *Accord: Waumbec Dyeing & Finishing Co.*, 101 NLRB 1069 (1952). While the Petitioner has peacefully protested the Employer’s decision to request review in this case, and its refusal to meet with representatives of the Petitioner, it has not engaged in any recognitional strike or picket. On December 14, 2018, the Petitioner also withdrew its pending unfair labor practice charge concerning the Employer’s refusal to bargain. *See* Letter Approving Withdrawal Request, 18-CA-232268. The Petitioner again certifies that it is requesting to withdraw the Petition because it does not wish to invoke the jurisdiction of the Board to establish any rights as

bargaining agent for the newly-accreted employees in the expanded unit covered by the Petition. The Petitioner has taken no action which could be viewed as inconsistent with this stated purpose.

Another circumstance where the Board may deny the withdrawal request is when other unions are involved with the pending case, but here, without an intervenor, there should be no such concern. See, e.g., *Merchants Refrigerating Company*, 78 NLRB 528, 529 (1948), *Underwriters Salvage Co.*, 76 NLRB 601, 603 (1948), and *Annheuser-Busch, Inc.*, 246 NLRB 29 (1979).

The Board has also held that, after a valid election, the only scenario in which a withdrawal request may not be approved is that “if it appears that the intent of the withdrawal is to circumvent the intent of Section 9(c)(3).” NLRB Casehandling Manual (Part Two) Representation Proceedings Sec. 11116.1. *Accord: Garden Manor Farms, Inc.*, 341 NLRB 192 (2004), and *Transportation Maintenance Services, L.L.C.*, 328 NLRB 691 (1999). Section 9(c)(3) of the National Labor Relations Act prohibits holding another election for a bargaining unit or its subdivision within 12 months of a valid election. 29 U.S.C. § 159(c)(3). Since the Petitioner won the election directed by the RD, and was later certified, and since the Petitioner has clearly indicated in its Request that the withdrawal is with prejudice, there is evidently no intent to circumvent Section 9(c)(3).

III. Granting the Request would promote consistency and uniformity across the Regional Offices of the Board.

In recent years, several representation cases before the Board have raised similar issues to those raised in this Petition, in contexts similar to the one the Petitioner finds itself in, viz., the withdrawal of a petition after the petitioner has won an election and been certified.

Boston College Graduate Employee Union-United Auto Workers (“BCGEU-UAW”), the petitioner in *Boston College*, requested the withdrawal of its petition on February 8, 2018, providing no reasoning and making no disclaimer of interest. Withdrawal Request in 01-RC-194148.¹ As in the Request here, BCGEU-UAW wrote that it “understands that you will revoke the certification in this matter and that this withdrawal will be with prejudice to refiling pursuant to Board policy.” *Ibid.* On February 8, the Regional Director of Region 1 approved BCGEU-UAW’s withdrawal request. *Id.*, Letter Approving Withdrawal Request.² UNITE HERE Local 33, the petitioner in eight separate cases titled *Yale University*, requested the withdrawal of all eight petitions on February 12, 2018, providing no reasoning and making no disclaimer of interest. Withdrawal Request in 01-RC-183014, 01-RC-183016, 01-RC-183022, 01-RC-183025, 01-RC-183031, 01-RC-183038, 01-RC-183043, and 01-RC-183050.³ On February 12, the Regional Director of Region 1 approved UNITE HERE Local 33’s withdrawal request. *Id.*, Letter Approving Withdrawal Request.⁴ A similar withdrawal request was made and approved in *University of Chicago*, Case No. 13-RC-198325. In all ten cases, the petitioners’ withdrawal requests were made without a disclaimer of interest, and were speedily approved by the Regional Director.

The Board has twenty-six offices across the country, which collectively handle over 1,500 representation petitions a year. With such a large volume of cases, it is important for the Board’s regional offices to handle procedural matters, such as withdrawals, consistently. Given the procedural history for similar requests in other regions, we respectfully ask that the RD here

¹ Attached as Exhibit A.

² Attached as Exhibit B.

³ Attached as Exhibit C.

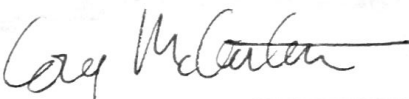
⁴ Attached as Exhibit D.

approve the Petitioner's Request.

Conclusion

The Petitioner has indicated in its Request its genuine desire to withdraw the Petition, and to not invoke the jurisdiction of the Board. Because the Employer agrees that the Board has no jurisdiction, because no grounds to deny the Request are present, and because similar requests have been expeditiously approved in other cases, the Petitioner respectfully asks that the Request be approved.

Respectfully submitted this 17th day of December, 2018.

/s/ 

Cory McCartan
Union of Grinnell Student Dining Workers
Petitioner


union@ugsdw.org

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **PETITIONER'S STATEMENT IN SUPPORT OF WITHDRAWAL REQUEST** was served on the following parties by the methods indicated, on this 17th day of December, 2018:

By Electronic Mail

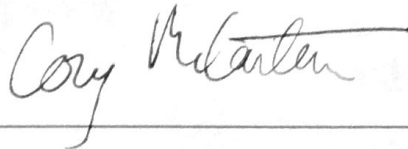
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Jennifer A. Hasdall (jennifer.hadsall@nlrb.gov)
Regional Director
National Labor Relations Board, Region 18
Federal Office Building
212 3rd Avenue S, Suite 200
Minneapolis, Minnesota

/s/ 

Cory McCartan
Union of Grinnell Student Dining Workers
Petitioner


union@ugsdw.org

EXHIBIT A

WRITER'S DIRECT DIAL:
(860) 570-4639
twmeiklejohn@lapm.org

February 8, 2018

Paul Murphy, Acting Regional Director
NLRB Region One
10 Causeway Street, 6th Floor
Boston, MA 02222-1001

Re: Boston College
Case No. 01-RC-194148

Dear Mr. Murphy:

On behalf of the Petitioner, this is to request withdrawal of the petition in the above-captioned matter. The Petitioner understands that you will revoke the certification in this matter and that this withdrawal will be with prejudice to refiling pursuant to Board policy.

Thank you for your attention to this matter.

Very truly yours,

Thomas W. Meiklejohn

TWM:vds

Cc: Gene Switzer
Hyacinth Blanchard



NATIONAL LABOR RELATIONS BOARD

EXHIBIT B

REGION 1
10 Causeway St Fl 6
Boston, MA 02222-1001

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February 8, 2018

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75 PARK PLAZA, 4TH FLOOR
BOSTON, MA 02116-3941

Re: BOSTON COLLEGE
Case 01-RC-194148

Dear Mr. Bertoncini, Ms. Jackson, Mr. Egan, and Ms. Munoz:

The Union was previously certified as the exclusive collective-bargaining representative of the employees that are included in the unit in Case 01-RC-194148. On February 8, 2018 the Union requested withdrawal of the petition that it filed in Case 01-RC-194148. This is to advise you that I have approved the Petitioner's withdrawal request, with prejudice. Accordingly, the Certification of Representative that issued in Case 01-RC-194148 is revoked.

Very truly yours,

PAUL J. MURPHY
Acting Regional Director

cc: WILLIAM LEAHY, PRESIDENT
BOSTON COLLEGE
BOTOLPH HOUSE GENERAL
18 OLD COLONY RD
CHESTNUT HILL, MA 02467-3970

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February 12, 2018

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Paul Murphy, Acting Regional Director
NLRB Region One
10 Causeway Street, 6th Floor
Boston, MA 02222-1001

Re: 01-RC-183014 | 01-RC-183016 | 01-RC-183022 | 01-RC-183025
01-RC-183031 | 01-RC-183038 | 01-RC-183043 | 01-RC-183050

Dear Mr. Murphy:

On behalf of the Petitioner, this is to request withdrawal of the petitions in the above-referenced matters. The Petitioner understands that you will revoke the certifications in these matters and that this withdrawal will be with prejudice to refiling pursuant to Board policy.

Thank you for your attention to this matter.

Very truly yours,



Yuval Miller
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Philip Paul Bowe (CA) (Ret.)
Barry S. Jellison (CA) (Ret.)



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NATIONAL LABOR RELATIONS BOARD

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February 12, 2018

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Re: Yale University
Cases 01-RC-183014, 01-RC-183016, 01-RC-183022,
01-RC-183025, 01-RC-183031, 01-RC-183038,
01-RC-183043 and 01-RC-183050

Gentlemen:

The Union was previously certified as the exclusive collective bargaining representative of the employees that are included in the units in Cases 01-RC-183014, 01-RC-183016, 01-RC-183022, 01-RC-183025, 01-RC-183031, 01-RC-183038, 01-RC-183043 and 01-RC-183050. On February 12, 2018, the Union requested withdrawal of the petitions that it filed in above listed cases. This is to advise you that I have approved the Petitioner's withdrawal request, with prejudice. Accordingly, the Certification of Representative that issued in each of the following cases is revoked: Cases 01-RC-183014, 01-RC-183016, 01-RC-183022, 01-RC-183025, 01-RC-183031, 01-RC-183038, 01-RC-183043 and 01-RC-183050.

Very truly yours,

Paul J. Murphy
Regional Director

cc: see attached

cc: Aaron Greenberg, Chair
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