

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

WELLS FARGO BANK, N.A.

Employer

and

Case 32-RC-331599

**WELLS FARGO WORKERS UNITED, AFFILIATED WITH
COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO**

Petitioner

ORDER DISMISSING PETITION

On December 8, 2023, Wells Fargo Workers United, Affiliated with Communications Workers of America, AFL-CIO (Petitioner/Union), requested that Wells Fargo Bank, N.A. (Employer) voluntarily recognize it as the exclusive collective bargaining representative of its employees in the following appropriate bargaining unit (Unit):

All full-time and regular part-time Tellers, Personal Bankers, and Branch Operation Coordinators employed by the Employer at its facility located at 243 East Bellevue Road, Suite A4, Atwater, CA 95301; excluding Branch Managers, Branch Service Managers, Financial Advisors, confidential employees, office clerical employees, guards, and supervisors as defined in the Act.

On December 8, 2023, the Union filed a petition in this matter seeking to represent the employees in the Unit and on December 11, 2023, Region 32 served a copy of the petition on the parties.

On December 12, 2023, the Union filed a charge against the Employer in case No. 32-CA-331887 which was subsequently amended on December 18, 2024.

On January 18, 2024, an election was conducted pursuant to a Stipulated Election Agreement that was entered between the Employer and the Petitioner and approved by the Acting Regional Director. The Tally of Ballots made available to the parties pursuant to the Board's Rules and Regulations, showed the following results:

Approximate number of eligible voters	4
Number of void ballots	0
Number of ballots cast for the Petitioner	1
Number of votes cast against participating labor organization	3
Number of valid votes counted	4
Number of challenged ballots	0
Number of valid votes counted plus challenged ballots	4

The results show that the Union lost 1-3. No challenges were made to affect the results of the election.

On January 24, 2024, the Union filed timely objections to conduct affecting the result of the election mirroring allegations contained in the unfair labor practice charges referenced herein.

On June 4, 2024, the Union filed a further charge against the Employer in case No. 32-CA-343637.

On February 11, 2025, the Region issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in the unfair labor practice charges in Case Nos. 32-CA-331887 and 32-CA-343637 (the Complaint). The Complaint alleges, *inter alia*, that the Employer violated Sections 8(a)(1) and (3) of the Act during the critical period by creating an impression of surveillance; threatening employees with increased scrutiny; threatening employees with stricter enforcement of and/or changes in their conditions of employment; making and threatening to make changes to employees' working conditions in retaliation for employees support for the Union; and imposing more onerous working conditions on an employee. The Complaint seeks, as a remedy for the above unfair labor practices, an order requiring that the Employer recognize and bargain in good faith with the Petitioner as the exclusive bargaining agent of its employees.

In *Cemex*, 372 NLRB No. 130 (2023), the Board held that even a single violation of the Act by an employer that interferes with employee free choice and undermines the reliability of an election will result in a remedial bargaining order. *See id.*, slip op. at 26 fn.142 and at 35 fn.188. The underlying rationale is that "if the employer commits unfair labor practices that invalidate the election, then the election necessarily fails to reflect the uncoerced choice of a majority of employees. In that situation, the Board will, instead, rely on the prior designation of a representative by the majority of employees by nonelection means, as expressly permitted by Section 9(a), and will issue an order requiring the employer to recognize and bargain with the union, from the date that the union demanded recognition from the employer." *Id.*, slip op. at 26.

As the *Cemex* Board acknowledged, "under long-established Board law, an election will be set aside based on an employer's critical-period violation of Sec. 8(a)(1) unless the "violations . . . are so minimal or isolated that it is virtually impossible to conclude that the misconduct could have affected the election results." *Id.*, slip op. at 25 fn.142 (quoting *Lucky Cab Co.*, 360 NLRB 271, 277 (2014) (internal quotations and further citations omitted). A violation of Section 8(a3) in the critical period will likewise require setting the election aside. *See id.* (citing *Lucky Cab Co.*, *supra*). "In determining whether unlawful misconduct could affect the results of an election, the Board considers all relevant factors, including the number of violations, their severity, the extent of dissemination, the size of the unit, the closeness of the election (if one has been held), the proximity of the conduct to the election date, and the number of unit employees affected." *See id.* (citing *Bon Appetit Management Co.*, 334 NLRB 1042, 1044 (2001))." Thus, based on the foregoing, if a demand for recognition is made, an election petition is filed by the union, and the employer commits unfair labor practices between the demand for recognition and the election that frustrate a free, fair, and timely election, the election petition will be dismissed and the employer will be subject to a remedial bargaining order "based on employees' prior, proper designation of a representative for the purpose of collective bargaining pursuant to Section 9(a) of the Act." *Id.*, slip op. at 28-29.

Here, the Region's issuance of a Complaint over serious and pervasive violations of Sections 8(a)(1) and (3) of the Act committed by officials of the Employer and disseminated to the entire bargaining unit during the period between the demand for recognition and the election, interfered with employee free choice and undermined the reliability of the election. Thus, pursuant to *Cemex*, the Employer's unlawful conduct warrants setting aside the election and the Region is seeking a remedial bargaining order in the unfair labor practice case. Consequently, I am dismissing the petition in Case 32-RC-331599.

IT IS ORDERED that the petition in 32-RC-331599 be and is hereby dismissed.¹

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67(c) of the Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the request for review must be served on each of the other parties as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. The request for review must contain a complete statement of the facts and reasons on which it is based.

Procedures for Filing Request for Review: Pursuant to Section 102.5 of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlrb.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Section 102.5(e) of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. The request for review must comply with the formatting requirements set forth in Section 102.67(i)(1) of the Board's Rules and Regulations. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business **(5 p.m. Eastern Time) on August 19, 2025**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time on August 19, 2025**.

Filing a request for review electronically may be accomplished by using the E-Filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility

¹ The petition is subject to reinstatement, if appropriate, after final disposition of the unfair labor practice proceedings and upon request for reinstatement by the petitioner. See, e.g., *Maxwell Plumb Mechanical Corp.*, 2024 WL 4294092 (Sept. 25, 2024) (unpub. Board order); see also Sec. 11733.1(a)(2) of the NLRB Casehandling Manual (Part Two) Representation Proceedings.

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for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which must also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Any party may, within 5 business days after the last day on which the request for review must be filed, file with the Board a statement in opposition to the request for review. An opposition must be filed with the Board in Washington, DC, and a copy filed with the Regional Direction and copies served on all the other parties. The opposition must comply with the formatting requirements set forth in §102.67(i)(1). Requests for an extension of time within which to file the opposition shall be filed pursuant to §102.2(c) with the Board in Washington, DC, and a certificate of service shall accompany the requests. The Board may grant or deny the request for review without awaiting a statement in opposition. No reply to the opposition may be filed except upon special leave of the Board.

Dated: August 5, 2025



Richard McPalmer
Acting Regional Director
National Labor Relations Board
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