UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

RIVERWOOD CENTER, LLC

and Case 12-RM-330540

THE INDEPENDENT ASSOCIATION OF
PUBLIC AND PRIVATE EMPLOYEES

RIVERWOOD CENTER, LLC

and Case 12-CA-334715

THE INDEPENDENT ASSOCIATION OF
PUBLIC AND PRIVATE EMPLOYEES

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Dion Y. Kohler, Esq. (Jackson Lewis, P.C.),
Atlanta, GA, for the Respondent
Torrence Johnson, for the Charging Party

DECISION

STATEMENT OF THE CASE

MICHAEL A. ROSAS, Administrative Law Judge. On May 27, 2025, the Regional Director issued an order consolidating Cases 12-CA-334715 and 12-RM-330540 for hearing. The consolidated cases were tried in Jacksonville, Florida on March 17, 2026.

Based on timely charges filed by The Independent Association of Public and Private Employees (Union) on January 30, 2024, the General Counsel issued the complaint in Case 12-CA-334715 on May 27, 2025. The complaint alleges that Riverwood Center, LLC (Respondent) violated Section 8(a)(1) of the National Labor Relations Act (the Act)[1] on or about a date in mid-November or December 2023[2] by: (1) interrogating its employees about their union activities and sympathies, and the union activities and sympathies of other employees; and (2) creating the impression among its employees that their union activities were under surveillance by Respondent.

Respondent denied the material allegations of the complaint and asserted several affirmative defenses: (1) the complaint fails to state a claim upon which relief may be granted; (2) the allegations are barred by Section 10(b) of the Act; (3) National Labor Relations Board (the Board) administrative law judges lack jurisdiction because they have two layers of insulation from

[1] 29 U.S.C. § 158(a).
[2] All dates are in 2023 unless stated otherwise.

removal; and (4) the Board does not possess the requisite members to constitute a quorum.[3]

Case 12-RM-330540 involves the Union's remaining objection to a representation election held on January 3, 2024 and mirrors the allegations in the unfair labor practice charge:

> 7. By questioning employees during the campaigning period as to what employees were responsible for "bringing the Union into the building."[4]

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a Florida limited liability company with a principal office in Tampa, Florida, and an office and place of business located at 2802 Parental Home Road, Jacksonville, Florida (the facility), has been engaged in the operation of a nursing and rehabilitation facility. In conducting its operations at the facility, the Respondent annually derives gross revenues in excess of $100,000, and purchased and received at its facility goods valued in excess of $50,000 directly from points outside the State of Florida. The Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Respondent's Operations

Riverwood Center, LLC (Respondent) operates a 240-bed skilled nursing facility in Jacksonville, Florida. The facility's 15 departments operate four nursing units and a dementia unit. Respondent employs approximately 200 to 250 staff members who provide approximately 220 residents with medical and mental health care and assistance with activities of daily living. At the relevant times, Jessa Collins was the facility administrator and highest-level manager.

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[3] Respondent's third and fourth affirmative defenses raise constitutional objections that have been rejected by the Board. See *Commonwealth Flats Development Corp. d/b/a Seaport Hotel Boston,* 373 NLRB No. 142, slip op. at 1 fn. 1 (2024) (rejecting arguments that removal protections for Board members and administrative law judges violate Article II of the Constitution); *Blue Tarp redevelopment, LLC d/b/a MGM Springfield,* 374 NLRB No. 84, slip op. at 1, fn.1 (2026) (the General Counsel has authority under the Act to issue and prosecute unfair labor practice complaints, regardless as to whether the Board had a valid quorum at the time).

[4] The Regional Director noted at footnote 1 of his order that while Objection 7 did not allege "the creation of surveillance," the Union's "Synopsis of Violations" alleged that "names were thrown out" during questioning by the Employer about which employees were responsible for bringing the Union 'in the building,' which may be considered as the creation of impression of surveillance."

Jacquelin Norris was hired as a certified nursing assistant in December 2015. At some point prior to mid-2023, Norris transferred to the position of concierge. As a concierge, Norris did room checks for new residents, greeted family members, did tours, helped pack and unpack residents, and labeled their clothes. She reported directly to Collins and another manager, Karla Kaiser. Norris worked as a concierge until she resigned voluntarily in April 2024.

A. The Union Campaign

In mid-2023, Norris and other employees expressed interest in bringing in the Union. In those discussions, Norris agreed to reach out to the Union. She spoke with her daughter, Shantay Bell, who was a union-represented cafeteria worker at another company. At Bell's suggestion, Norris contacted Torrence Johnson, the Union's president. Norris met with Johnson at her home, where they discussed the organizing process, and she signed an authorization card. Johnson also provided Norris with authorization cards and she proceeded to distribute and collect 100 to 120 signed cards from the facility's employees.[5]

On November 8, 2023, the Union served Respondent with a demand for recognition as the employees' exclusive bargaining representative. In response, Respondent filed a petition in Case 12-RM-330540 on November 22. The Regional Director then scheduled a representation hearing for December 13. Pursuant to a Stipulated Election Agreement a manual election was scheduled for January 3, 2024 in the following bargaining units:

Unit A (Professional Unit)

Included: All full-time and regular part-time MDS Coordinators, Occupational Therapists, Physical Therapists, Speech Therapists, Occupational Therapist Assistants, Physical Therapist Assistants, Registered Nurses, Wound Care Nurses, and Social Work Assistants.

Excluded: Activities Assistants, CNAs Dietary Aides, Dietary Cooks, Floor Techs, Housekeeping, Laundry Aides, LPNs, Maintenance Assistants, Personal Care Attendants, and Receptionists, all other employees, confidential employees, managerial employees, guards and supervisors as defined in the Act.

Unit B (Non-Professional Unit)

Included: All full-time and regular part-time Activities Assistants, CNAs, Dietary Aides, Dietary Cooks, Floor Techs, Housekeeping employees, Laundry Aides, LPNs, Maintenance Assistants, Personal Care Attendants, and Receptionists.

Soon after receiving the Union's demand for recognition, Respondent's labor counsel provided managers with a training session about the Act's prohibition conduct during the critical period before an election. The handouts and PowerPoint presentation instructed employees, among other things, as what they could not say to or ask employees about the Union, their union activities

[5] It is undisputed that Norris engaged in substantial union activity. However, there is no evidence that any managers or supervisors saw her distribute or collect authorization cards. (Tr. 14-18.)

or the union activities of other employees. During the training, the managers were given an example of a prohibited question: "Who is behind the union talk?"[6]

Consistent with the election training she received, there is no credited evidence that Collins asked any employees, including Norris, about the Union, their union activities, or the union activities of other employees, prior to the election.[7]

B. The Representation Election

The election in Case 12-RM-339540 took place on January 3, 2024. The Union did not receive a majority of votes cast in either Unit A or Unit B. On January 9, 2024, the Union filed 13 objections to the election.

In May 2024, Norris filed unfair labor practice charges with the Board regarding the representation election. In a sworn affidavit, Norris alleged that her daughter, Shakia Hillard, resigned her position as the facility's human resources director after Collins harassed her. In addition, on an unspecified date, Norris's husband applied for a position but was told that he could not be hired because he was a family member.[8]

On May 26, 2024, the Regional Director issued an order approving the withdrawal of six objections, overruling one objection, and directing a hearing for the remaining objections. On September 25, 2024, the Regional Director approved the Union's request to withdraw all of the remaining objections, except for Objection 7.

LEGAL ANALYSIS

Section 8(a)(1) provides that it is an unfair labor practice to interfere with, restrain or coerce employees in the exercise of the rights guaranteed in Section 7. In assessing whether an employer's questioning of an employee reasonably tended to interfere with, restrain, or coerce employees in the exercise of their Section 7 rights, the Board applies a "totality of circumstances" test involving

[6]The election-related training provided to managers is also undisputed. (Tr. 33-36, 38-39; R. Exh. 1.)

[7] Collins, no longer in Respondent's employ, credibly denied calling or text messaging Norris at home and asking if she was involved in the Union campaign. She also testified that she preferred to communicate with employees via text message and did not usually call. (Tr. 36-37.) Questioned on cross-examination if she ever called Norris and asked if she was the one who contacted the "Labor Board," Collins explained that she usually texted and could not recall having such a conversation with Norris. (Tr. 42-43.) Norris's version about a "casual" conversation, on the other hand, was not credible. In addition to exhibited bias regarding Respondent's alleged treatment of her daughter and husband, Norris was impeached by her sworn prior statement about the incident. She testified that Norris, on an unspecified date, called her at home and said, "she was questioning about the union, and my name kept coming up but she could not understand why my name keep coming up when she was questioning people because I was no longer working as a CNA," which Norris denied at the time. (Tr. 18-20.) On cross-examination, however, Norris conceded that she gave an entirely different version of the alleged incident in her sworn Board affidavit: When I was off, Administrator Collins called me and asked if I had called the Labor Board. I told her no." (Tr. 21-23.)

[8] Norris exhibited resentment in asserting that Collins retaliated against family members because she engaged in union activity. Moreover, there was no evidence to corroborate her hearsay testimony regarding the circumstances of Hilliard's resignation. Nor was there evidence to support Norris' assertion that Respondent's declined to hire her husband because other family members also worked there. (Tr. 23-26.)

several factors, including those set forth in *Bourne v. NLRB*, 332 F.2d 47, 48 (2d Cir. 1964): (1) the background against which the questioning occurred, i.e., whether there is a history of employer hostility and discrimination; (2) the nature of the information sought, i.e., whether the interrogator appears to have sought information on which to base taking action against individual employees; (3) the identity and rank of the questioner; (4) the place and method of the interrogation; and (5) the truthfulness of the reply. See *Rossmore House*, 269 NLRB 1176, 1178 & fn. 20 (1984), affd. sub nom. *HERE, Local 11 v. NLRB*, 760 F.2d 1006 (9th Cir. 1985).

The elements of a prima facie violation of Section 8(a)(1) were established. Norris testified that Collins called her at home on an unspecified date before the election, told Norris that she was "questioning about the union, and my name kept coming up but she could not understand why my name keep coming up when she was questioning people because I was no longer working as a CNA," which Norris denied. Although there is no evidence of history of employer hostility and discrimination, and the alleged "casual" telephone conversation took place when Norris was home, the remaining factors weigh in favor of a prima facie violation: the nature of the information sought appeared to be seeking information about Norris' union activities; Collins was Respondent's highest ranking manager; and Norris lied about her involvement.

Although Norris' testimony provided the minimum evidence needed to establish the elements of a coercive interrogation, the evidence failed to prove by a preponderance of the evidence that Collins called Norris at home, mentioned that she questioned employees about their union activities, and impliedly asked Norris whether she was also engaged in union activities. As explained above, I credited Collins' denial that she made the telephone call at issue over Norris' inconsistent versions of the incident, as well as the bias that Norris exhibited toward Respondent.

CONCLUSIONS

Respondent, Riverwood Center, LLC, has not violated the Act as alleged. Nor did Respondent engage in objectional conduct during the critical period prior to the January 3, 2024 representation election. On these findings of fact, conclusions of law, and the entire record, I issue the following recommended[9]

ORDER

The complaint is dismissed. In addition, Union Objection 7 is overruled.

Dated: Washington, D.C. April 30, 2026

Michael A. Rosas
Administrative Law Judge

[9] If no exceptions are filed as provided by §102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in §102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.