

FORM NLRB-4775

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**SETTLEMENT AGREEMENT**

**IN THE MATTER OF**

**NAP VENTURE PARTNERS, LLC D/B/A  
LIFESTYLES COMMUNITIES PAVILION**

Case 9-CA-43944

The undersigned Charged Party and the undersigned Charging Party, in settlement of the above matter, and subject to the approval of the Regional Director for the National Labor Relations Board, HEREBY AGREE AS FOLLOWS:

**POSTING OF NOTICE** — Upon approval of this Agreement and receipt of the Notices from the Region, the Charged Party will post immediately in conspicuous places in and about its plant/office, including all places where notices to employees/members are customarily posted, and maintain for ( ) consecutive days from the date of posting, copies of the attached Notice made a part hereof, said Notices to be signed by a responsible official of the Charged Party and the date of actual posting to be shown thereon.

**COMPLIANCE WITH NOTICE** — The Charged Party will comply with all the terms and provisions of said Notice.

**BACKPAY AND INTEREST** --- Within 14 days from approval of this agreement the Charged Party will make whole the employee(s) named below by payment to each of them of the amounts of backpay opposite each name. The Charged Party will make appropriate withholdings for each named employee from the checks representing backpay.

	<u>BACKPAY</u>
James Cavanaugh.....	\$3200.00
Dale Rowles.....	\$3200.00
Leonard deVrijer.....	\$3200.00

**SCOPE OF THE AGREEMENT** — This Agreement settles only the allegations in the above-captioned case(s), and does not constitute a settlement of any other case(s) or matters. It does not preclude persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters which precede the date of the approval of this Agreement regardless of whether such matters are known to the General Counsel or are readily discoverable. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

**REFUSAL TO ISSUE COMPLAINT** — In the event the Charging Party fails or refuses to become a party to this Agreement, and if in the Regional Director's discretion it will effectuate the policies of the National Labor Relations Act, the Regional Director shall decline to issue a Complaint therein (or a new Complaint if one has been withdrawn pursuant to the terms of this Agreement), and this Agreement shall be between the Charged Party and the undersigned Regional Director. A review of such action may be obtained pursuant to Section 102.19 of the Rules and Regulations of the Board if a request for same is filed within 14 days thereof. This Agreement shall be null and void if the General Counsel does not sustain the Regional Director's action in the event of a review. Approval of this Agreement by the Regional Director shall constitute withdrawal of any Complaint(s) and Notice of Hearing heretofore issued in the above captioned case(s), as well as any answer(s) filed in response.

**PERFORMANCE** — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

**NOTIFICATION OF COMPLIANCE** — The undersigned parties to this Agreement will each notify the Regional Director in writing what steps the Charged Party has taken to comply herewith. Such notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. In the event the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that no review has been requested or that the General Counsel has sustained the Regional Director. Contingent upon compliance with the terms and provisions hereof, no further action shall be taken in the above captioned case(s).

Charged Party NAP VENTURE PARTNERS, LLC D/B/A LIFESTYLES COMMUNITIES PAVILION		Charging Party INTERNATIONAL ALLIANCE OF THEATRICAL, STAGE EMPLOYEES AND MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS OF THE UNITED STATES AND CANADA, LOCAL 12, AFL-CIO	
By: Name and Title	Date	By: Name and Title <i>[Signature]</i>	Date 6/4/08
Recommended By: Anne J. Poppe, Board Agent	Date	Approved By: Gary W. Muffley, Regional Director	Date

**FEDERAL LAW GIVES YOU THE RIGHT TO:**

- Form, join or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT promise you a wage increase to discourage you from supporting the International Alliance of Theatrical Stage Employees and Moving Picture Technicians, Artists and Allied Crafts of the United States and Canada, AFL-CIO or any other labor organization.

WE WILL NOT imply that it would be futile to select the above Union or any other labor organization as your collective-bargaining representative by telling you that we will not sign a contract with the Union.

WE WILL NOT suspend our employees or fail to offer them opportunities to work, thereby reducing employees' hours because of our belief that they engaged in protected concerted activities by complaining about wages, hours and working conditions OR because they support the above Union or any other labor organization.

WE WILL NOT prevent you from exercising the above rights.

WE WILL offer employment and hours of work to James Cavanaugh, Dale Rowles and Leonard deVrijer without any discrimination and without consideration of any alleged unlawful suspension; in an effort to be fair, we confirm that no personnel file references any such suspension and we will make them whole for any alleged discrimination.

*RKH*  
*6/04/08*

NAP VENTURE PARTNERS, LLC D/B/A  
LIFESTYLE COMMUNITIES PAVILION  
(Employer)

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
(Responsible Official) (Title)

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 9

NAP VENTURE PARTNERS, LLC

Employer

and

Case 9-RC-18168

INTERNATIONAL ALLIANCE OF THEATRICAL  
STAGE EMPLOYEES, MOVING PICTURES TECHNICIANS,  
ARTISTS AND ALLIED CRAFTS OF THE US AND CANADA,  
LOCAL 12, AFL-CIO

Petitioner

STIPULATION TO SET ASIDE ELECTION

The parties hereto entered into a Stipulated Election Agreement approved by the Regional Director on September 19, 2007. An election was thereafter conducted on October 5, 2007 among certain employees <sup>1/</sup> of the Employer to determine whether such employees desired to be represented by the Petitioner for the purposes of collective bargaining.

Upon the conclusion of the election, a Tally of Ballots was made available to the parties disclosing that of the approximately 63 eligible voters, 8 cast ballots for the Petitioner, 18 cast ballots against the Petitioner and 24 cast challenged ballots. The challenged ballots are sufficient in number to affect the results of the election. On October 2, 2007, the Petitioner timely filed objections to the election.

In order to resolve the issues raised by the determinative challenges and objections, the undersigned parties hereby stipulate and agree as follows.

1. The Employer and the Petitioner agree that the election conducted on October 5, 2007 be set aside and held a nullity by the Regional Director. The parties further agree that, as a result of the parties' agreement to set aside the October 5, 2007 election, the issues raised by the determinative challenged ballots are also now moot and the said ballots should be neither opened nor counted.

2. The Employer and the Petitioner hereby waive the right to: (a) submit any further evidence pertaining to the determinative challenged ballots and the objections to the election held on October 5, 2007; (b) a Report to the Board on said determinative challenged ballots and objections; (c) a hearing on said determinative challenged ballots and objections; (d) a Report

<sup>1/</sup> The appropriate bargaining unit as set forth in the Agreement is as follows: "All full-time, regular part-time, per diem and casual staff and stagehands employed by the Employer at Lifestyle Communities Pavilion in Columbus, Ohio, who are regularly employed at least an average of 4 hours per week during a calendar quarter and who perform lighting and electrical work, audio, scenery and drops, carpentry, installation and dismantling of exhibits and display booths, properties, audio/visual, projection, truck loading, wardrobe, hair, make-up, fork lift driving, rigging and set up and tear out work and other show related general laborer work, but excluding all administrative employees, clerical employees, office employees and all professional employees, guards and supervisors as defined in the Act."

and Recommendation on said determinative challenged ballots and objections; (e) except to any such Report and Recommendation on said determinative challenged ballots and objections; (f) a Decision and Order by the Board on said determinative challenged ballots and objections; (g) all other proceedings concerning said determinative challenged ballots and objections and election held on October 5, 2007 to which they may be entitled under the Act or the Rules and Regulations of the Board.

3. The Employer and the Petitioner agree that a second (rerun) election shall be conducted among employees in the appropriate unit as set forth in Paragraph 13 of the Stipulated Election Agreement previously approved by the Regional Director on a date and time and at a place as determined by the Regional Director after consultation with the parties, following the disposition of the unfair labor practice charges in Cases 9-CA-43944 and 9-CA-44065.

4. The Employer and the Petitioner agree that the payroll period for eligibility purposes for the second (rerun) election will be the payroll period ending immediately prior to the issuance of the Notice of Second (Rerun) Election and that within seven days following the issuance of the Notice of Second (Rerun) Election, the Employer shall file with the Region 9 office 3 copies of a list of the full names and addresses of the employees eligible to vote in the second (rerun) election.

5. The Employer and the Petitioner agree that the Notice of Election for the second (rerun) election to be held as specified above will explain that it is a rerun of the election held on October 5, 2007.

6. It is understood and agreed by the Employer and the Petitioner that all procedures subsequent to the conclusion of the counting of the ballots in the second (rerun) election shall be in conformity with the Rules and Regulations of the Board, and in accordance with the terms and provisions of the Stipulated Election Agreement as previously approved by the Regional Director.

NAP VENTURE PARTNERS, LLC  
(Employer)

By: \_\_\_\_\_  
(Name) (Date)

\_\_\_\_\_  
(Title)

Recommended by: \_\_\_\_\_  
(Board Agent) (Date)

Date Approved: \_\_\_\_\_

\_\_\_\_\_  
Regional Director, Region 9  
National Labor Relations Board

INTERNATIONAL ALLIANCE OF THEATRICAL  
STAGE EMPLOYEES, MOVING PICTURES  
TECHNICIANS, ARTISTS AND ALLIED CRAFTS OF  
THE US AND CANADA, LOCAL 12, AFL-CIO

(Petitioner)  
By: [Signature] 6/4/08  
(Name) (Date)

COUNCIL (ON LOCAL 12) ATSB  
(Title)