

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 11**

BASIC CONTRACTING SERVICES, INC.,

Employer,

Case No. 11-RC-6742

and

**INTERNATIONAL UNION, SECURITY, POLICE
AND FIRE PROFESSIONALS OF AMERICA (SPFPA)**

Petitioner

and

**INDUSTRIAL, TECHNICAL & PROFESSIONAL
EMPLOYEES UNION (ITPE)**

Intevenor

PETITIONER'S OPPOSITION TO REQUESTS FOR REVIEW

Petitioner International Union, Security, Police and Fire Professionals of America (SPFPA) opposes the Employer's and Intervenor's Requests for Review of the Regional Director's September 22, 2010 Decision and Direction of Election. The Regional Director's Decision is grounded on well established law, adequately supported by the facts in this case and should not be disturbed. Rather, the election now scheduled should proceed.

The parties stipulated to all pertinent facts:

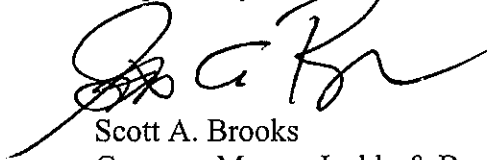
Petitioner International Union, SPFPA filed a Representation Petition on August 19, 2010 seeking to represent a unit of security guards within the meaning of Section 9(b)(3) of the Act. The Employer and/or Intervenor assert a contract bar exists, referring to the August 1, 2010 – July 31, 2013 Collective Bargaining Agreement.

The Employer voluntarily recognized the Intervenor as bargaining representative in October 2009. Since the Employer voluntarily recognized the Intervenor, the Employer has not posted a

Voluntary Recognition Notice (*Dana* Notice) or otherwise provided unit employees with notice of their opportunity to file a Board election petition within 45 days of receiving notice.

As notice was not given to unit employees of their right to file an election petition, the collective bargaining agreement negotiated subsequent to the voluntary notice does not constitute a bar to the instant Petition. *Dana Corp.*, 351 NLRB 434 (2007). Although the Board has recently solicited briefs from interested parties as to whether *Dana* should remain good law, at the present time it is the law. The Board did not direct Regional Directors or others to hold Petitions or otherwise ignore *Dana* while the Board considers whether to change it. Further, all the Board has announced is that it is reconsidering *Dana*; although it had ample opportunity, it did not issue a decision reversing *Dana* or altering the requirements. Accordingly, there is no bar to processing the Petition to election.

Respectfully submitted,



Scott A. Brooks
Gregory, Moore, Jeakle & Brooks

Dated: October 12, 2010

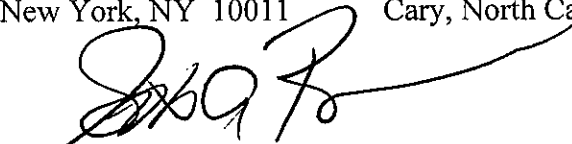
Certificate of Service

I certify that today I e-mailed and mailed (first class) a copy of Petitioner's Brief to:

Willie L. Clarke, Jr.
Regional Director
NLRB Region 11
4035 University Parkway, #200
Winston-Salem, NC 27106

Sidney Kalban
ITPEU
80 8th Avenue
Room 1806
New York, NY 10011

Richard McAtee
Jackson Lewis
1400 Crescent Green
Suite 215
Cary, North Carolina 27518



Scott A. Brooks
October 12, 2010