

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 24

WHM ST. THOMAS, INC.,

Employer

and

OUR VIRGIN ISLANDS LABOR UNION,

Petitioner

Case 24-UC-263

and

VIRGIN ISLANDS WORKERS UNION,

Intervenor

DECISION AND ORDER

Upon a petition filed under Section 9(b) of the National Labor Relations Act, as amended, careful investigation and consideration took place.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned Regional Director.

Upon the entire record in this proceeding, the Regional Director finds:

(1) The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

(2) The Petitioner proposes to clarify the bargaining unit¹ as follows:

¹ The existing bargaining unit as set forth in the Certification in 24-RC-8601 is: all full time and regular part time Rooms Division employees, including bellman/drivers, carpenter, drivers, guest services employees, houseperson employees, HVAC technicians, Kids Club attendants, laundry attendants, engineers, lobby attendants, painters, PBX employees, pool attendants, public space employees, and room attendants employed by the Employer at its facility in St. Thomas, USVI excluding all other employees, guards and supervisors as defined by the Act.

Included: All full-time and regular part-time Rooms and Food and Beverage Division employees, including bellman/drivers, carpenters, drivers, guest service employees, houseperson employees, HVAC technicians, Kids Club attendants, laundry attendants, engineers, lobby attendants, painters, PBX employees, pool attendants, public space employees, room attendants, bartenders, servers, cooks, dishwashers, hosts, bussers, stewards, banquet employees, and food preparation employees employed by the Employer at its facility St. Thomas, USVI.

(3) In a Decision and Direction of Election in case 24-RC-8681 issued on September 21, 2010, the Acting Regional Director found that a bargaining unit consisting of “all full time and regular part time food and beverage service employees including bartenders, waiters, waitresses, cooks, dishwashers, food preparation employees, but excluding other employees, guards and supervisory personnel as defined by the Act”, was an appropriate unit. No timely Request for Review of the Acting Regional Director’s decision was filed by any of the parties. Accordingly, the Decision and Direction of Election is now final and binding on the parties. For the reasons set forth in the above Decision and Direction of Election, the Employer’s request to clarify the existing bargaining unit, is denied. I am, therefore, dismissing the instant petition.

ORDER

The petition filed in this matter is dismissed.

RIGHT TO REQUEST REVIEW

Pursuant to the provisions of Section 102.67 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, you may obtain review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request for review must contain a complete statement setting forth the facts and reasons on which it is based.

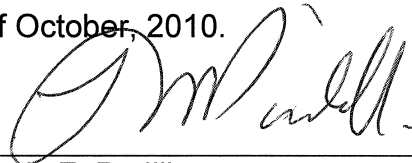
Pursuant to the Board's Rules and Regulations, Sections 102.111 – 102.114, concerning the Service and Filing of Papers, the request for review must be received by the Executive Secretary of the Board in Washington, D.C., by close of business on October 28, 2010, at **5 p.m. Eastern Time**, unless filed electronically. **Consistent with the Agency's E-Government initiative, parties are encouraged to file a request for review electronically.** If the request for review is 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 the due date. Please be advised that Section 102.114 of the Board's Rules and Regulations precludes acceptance of a request for review by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file.²

² A request for extension of time, which may 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.

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.

Filing a request for review electronically may be accomplished by using the E-Filing system on the Agency's website at www.nlr.gov. Once the website is accessed, select the E-Gov tab, click on E-Filing, and follow the detailed directions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file an appeal electronically will not be excused on the basis of a claim that the receiving machine was off-line or unavailable, the sending machine malfunctioned, or for any other electronic-related reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Signed at San Juan, PR this 14th day of October, 2010.



Luis F. Padilla
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