

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

WEBER MANAGEMENT D/B/ SADELITE
AGENCY/MS, INC.

Employer

and

Case No. 29-RC-11565

LOCAL 660, UNITED WORKERS OF AMERICA
Petitioner

and

DISTRICT 6, INTERNATIONAL UNION OF
INDUSTRIAL, SERVICE, TRANSPORT AND
HEALTH EMPLOYEES

Intervenor¹

DECISION AND DIRECTION OF ELECTION

Weber Management d/b/a Sadelite Agency/MS, Inc. (“the Employer”) provides laundry services to commercial customers. On February 27, 2008, Local 660, United Workers of America (“the Petitioner”) filed the instant petition under Section 9(c) of the National Labor Relations Act (“the Act”), seeking to represent a bargaining unit of full-time and regular part-time laundry and dry cleaning employees employed by the Employer, and excluding all other employees, including guards, supervisors, clerical and managerial employees as defined in the Act. District 6, International Union of Industrial, Service, Transport and Health Employees (“the Intervenor”) intervened in the case.

¹ District 6, International Union of Industrial, Service, Transport and Health Employees intervened based on its status as the current bargaining representative of the employees in the petitioned-for unit.

On March 6, 2008, the undersigned issued an Order postponing the hearing in this matter indefinitely. This Order was based on the filing of an unfair labor practice charge in Case No. 29-CA-28694 by the Intervenor in which it alleged that the Employer had violated Section 8(a)(5) of the Act by refusing to bargaining with the Intervenor as the exclusive collective bargaining representative of the unit of employees in the petitioned-for unit. Subsequently, the Employer and the Intervenor entered into an informal settlement agreement resolving the issues raised in Case No. 29-CA-28694. Accordingly, resuming the processing of the instant petition is now warranted.

On May 4, 2011, a hearing was held before James Kearns, a Hearing Officer of the National Labor Relations Board. Pursuant to 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 undersigned finds:

1. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The parties stipulated that the Employer, a domestic corporation with its principal office and place of business located at 129 South 8th Street, Brooklyn, New York, is engaged in providing laundry services to commercial customers. During the past year, a period representative of its operations annually, the Employer, in the course and conduct of its operations, provided services to its customers valued in excess of \$50,000, which customers, in turn, each meet a direct standard of the Board for the assertion of jurisdiction.

Based on the foregoing stipulation of the parties and the record, I find that the Employer is engaged in commerce within the meaning of the Act and that it will therefore effectuate the purposes of the Act to assert jurisdiction.

3. The parties stipulated that the Petitioner and the Intervenor are both labor organizations as defined in Section 2(5) of the Act. The Petitioner and the Intervenor both claim to represent certain employees of the Employer.

4. A question concerning representation exists with respect to certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.²

5. The parties stipulated, and I hereby find, that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining:

All laundry service employees employed by the Employer within a 75 mile radius of the Employer's 129 South 8th Street, Brooklyn, New York location, excluding all other employees, guards and supervisors as defined in Section 2(11) of the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by Local 660, United Workers of America. The date, time and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

² Subsequent to the close of the hearing, the Intervenor electronically advised the Region on May 6, 2011 that it was disclaiming interest in representing the petitioned-for unit and that it did not want to be appear on the ballot. The Intervenor's request to withdraw from this proceeding is granted and, accordingly, it will not appear on the ballot.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such a strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States who are employed in the unit may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within seven days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by me to assist in determining an adequate showing of interest. I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, Two MetroTech Center, 5th Floor, Brooklyn, New York 11201, on or before **May 13, 2011**. No extension of time to file the list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file the list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency's website, www.nlr.gov, by mail, or by facsimile transmission at (718) 330-7579. To file the eligibility list electronically, go to the Agency's website at www.nlr.gov, select "File Case Documents," enter the NLRB Case Number, and follow the detailed instructions. The burden of establishing the timely filing and receipt of the lists will continue to be on the sending party.

Since the list will be made available to all parties to the election, please furnish a total of **two** copies of the list, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least three (3) working days prior to 12:01 of the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least five full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on **May 20, 2011**. The request may be filed electronically through the Agency's website,

www.nlr.gov,³ but may **not** be filed by facsimile.

Dated at Brooklyn, New York, May 6, 2011.

Alvin Blyer
Regional Director, Region 29
National Labor Relations Board
Two MetroTech Center, 5th Floor
Brooklyn, New York 11201

³ To file the request for review electronically, go to www.nlr.gov, select “File Case Documents,” click on the NLRB Case Number, and follow the detailed instructions.