

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

WATKINS SECURITY AGENCY OF DC INC
Employer

and

UNITED SECURITY AND POLICE OFFICERS
OF AMERICA (USPOA)
Petitioner

Case 5-RC-16618

and

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

SECOND REPORT ON OBJECTIONS
AND NOTICE OF HEARING

Pursuant to a Stipulated Election Agreement¹ approved by the undersigned on January 12, 2011,² a secret-ballot election was conducted by mail. The mail ballots were sent to eligible voters on February 1. The ballots were commingled and counted on February 22 with the following results:

Approximate number of eligible voters	166
Void ballots	2
Votes cast for Petitioner:	20
Votes cast for Intervenor	2
Votes cast against participating labor organizations	7
Valid votes counted	29
Challenged ballots	0
Number of Valid votes counted plus challenged ballots	29

Challenges are not sufficient in number to affect the results of the election.

¹ The Unit is: "All full-time and part-time Special Police Officers (armed and unarmed), Security Officers, Lead Officers, and Sergeants, employed by the Employer in Washington, DC at locations currently located at the following addresses: 821 Howard Rd., 1800 Martin Luther King Ave., 2041 Martin Luther King Ave., 2100 Martin Luther King Ave., 2720 Martin Luther King Ave., 3720 Martin Luther King Ave., 2626 Naylor Rd., 4001 S. Capitol St., 4049 Capitol St., 3851 Alabama Ave., 3855 8th St., 3214 Pennsylvania Ave., 3220 Pennsylvania Ave., 3200 Benning Rd., 3919 Benning Rd., 5001 Shephard Pkwy., 1100 Alabama Ave., but Excluding all office clerical employees, professional employees, and supervisors as defined in the Act." The eligibility period is the payroll period ending January 1, 2011.

² Unless otherwise indicated, all dates are 2011.

On March 1, Intervenor filed a timely objection to conduct it alleges affected the results of the election. Intervenor's stated objection is:

The Employer failed to post Notices of Election at various work sites and/or failed to post Notices of Election in a timely fashion.

On March 15, 2011, the undersigned issued a Report on Objections dismissing Intervenor's Objection. The decision was based on the Board's decision in *View Manor, Inc.*, 319 NLRB 85 (1995), where the Board held that where there is more than one union involved in an election, as is true in the instant case, it would be improper to set aside the election based on the employer's failure to timely post the election notices. "Indeed, where, as here, the Employer was apparently responsible for the non-posting, and thus clearly estopped by Rule 103.20(c) from objecting thereto, such a pernicious result would be even more likely to occur. In these circumstances, therefore, to set this election aside based on the Employer's failure to post the election notices for the prescribed period would permit it to benefit from its own improper conduct, encourage collusion, and serve no substantial interest of the employees." *Id.* at 85-86; cf. *Nathan's Famous of Yonkers, Inc.* 186 NLRB 134 (1970). Intervenor requested review of that decision, and on June 29, 2011, the Board remanded the case to the Region for further investigation and, if necessary, a hearing.

The Board stated the objection raised issues with respect to whether the Employer properly posted the election and whether there is evidence the Employer favored either party during the election process, and the relevance, if any, of such evidence. The Employer denies it engaged in any objectionable conduct.

As it appears substantial and material issues have been raised which can best be resolved by record testimony, I direct that a hearing be held with respect to the issues raised by Intervenor's Objection.

NOTICE OF HEARING

IT IS HEREBY DIRECTED, pursuant to Section 102.69 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, that a hearing be held in Hearing East, 1099 14th Street, NW, Washington, DC, on August 9, 2011, beginning at 10:00 a.m., and consecutive days thereafter until completed, before a hearing officer of the National Labor Relations Board, who will take testimony for the purpose of resolving issues raised by the Intervenor's Objection, at which time the parties have the right to appear in person or otherwise and give testimony. The hearing officer designated for the purpose of conducting such hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of said issues. Within 14 days from the issuance of such report, any party may file with the Board in Washington, DC, an original and seven copies of exceptions thereto. Immediately upon filing such exceptions the party filing the same shall serve a copy thereof on the other parties and shall file a copy with the Regional Director. If no exceptions are filed thereto, the Board may decide the matter forthwith upon the record or make other dispositions of the case.

Dated at Baltimore, Maryland this 21st day of July 2011.

(SEAL)

/s/Wayne R. Gold

Wayne R. Gold, Regional Director
National Labor Relations Board, Region 5
Appraiser's Store Building
103 S. Gay Street, 8th Floor
Baltimore, MD 21202