

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

GCA SERVICES GROUP, INC.

and

**Cases 28-CA-23513
28-CA-62481**

**UNITED FOOD AND COMMERCIAL
WORKERS UNION LOCAL 99, AFL-CIO**

DECISION AND ORDER

Statement of the Cases

On October 13, 2011, GCA Services Group, Inc., (the Respondent), United Food and Commercial Workers Union Local 99, AFL-CIO, (the Charging Party Union), and the Acting General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act, as amended, and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The Formal Settlement Stipulation is approved retroactive to the date of its execution and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following:

Findings of Fact

1. The Employer's business

The Respondent is a Delaware corporation with an office and place of business in Mesa, Arizona (the Respondent's facility). It is engaged in the janitorial and facilities maintenance industry and provides services to the City of Phoenix at the terminals and rental car center of Sky Harbor International Airport in Phoenix, Arizona (the Respondent's jobsite).

In conducting its business operations at the Respondent's jobsite during the one-year period ending May 17, 2011, the Respondent derived gross revenues in excess of \$500,000.

In conducting its business operations at the Respondent's jobsite during the one-year period ending May 17, 2011, the Respondent purchased and received goods valued in excess of \$50,000 directly from outside the State of Arizona.

The Respondent is now, and has been at all material times, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The labor organization involved

United Food and Commercial Workers Union Local 99, AFL-CIO, is now, and has been at all material times, a labor organization within the meaning of Section 2(5) of the Act.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board orders that:

The Respondent, GCA Services Group, Inc., its officers, agents, successors, and assigns shall

1. Cease and desist at the Respondent's facility and the Respondent's jobsite from:

(a) Maintaining and enforcing the following rules in its Employees' Handbook for Hourly Employees:

(1) At pages 5 and 6:

You are required to read, understand, and comply with all provisions of the handbook. Any questions concerning the written material should be discussed with your supervisor or Human Resources Department.

This handbook is the exclusive property of GCA and is to be used for internal business purposes only. The contents of this handbook should not be distributed or disclosed to anyone outside of GCA.

(2) At page 23:

No Solicitation and No Distribution

Because of the need to maintain an atmosphere conducive to our goals of high quality service and employee productivity, the

Company has adopted regulations with regard to solicitations and distributions on Company property.

Non-employees are not allowed to solicit or distribute materials for donations on Company property, nor are they allowed to solicit employees or the public for the purpose of urging or encouraging them to purchase any items.

You, as an employee, are not permitted to encourage or solicit membership in fraternal, civic, religious, or other organizations on work time or in work areas.

- (3) At page 24:

Loitering

To prevent interruption of the work schedules of others, you will be expected to leave the premises immediately following the completion of your working hours. However, you must not leave your work-station before your shift ends without the permission of your supervisor. The practice of having children or other members of your family or friends waiting for you at the jobsite or areas other than public waiting rooms is against Company policy.

- (b) Detaining and interrogating employees about their union membership, activities, and sympathies or the union membership, activities and sympathies of other employees.
- (c) Promulgating or enforcing unlawful rules that prohibit employees from engaging in concerted activities, distributing union literature, speaking about the union, or speaking with union representatives.
- (d) Creating the impression among its employees by any means that their union and concerted activities are under surveillance.
- (e) Engaging in any form of surveillance of its employees to discover their union and concerted activities.
- (f) Soliciting complaints and grievances in any manner from its employees and making promises to remedy its employees' complaints and grievances if its employees refrain from supporting United Food and Commercial Workers Union, Local 99 (the Union).
- (g) Promising or announcing to its employees improved pay or benefits in order to dissuade its employees from supporting the Union.

- (h) Threatening its employees that it will not discuss with or grant its employees pay raises or improved benefits until they cease support for and activities on behalf of the Union.
- (i) Attributing the Respondent's failure and inability to grant pay raises or improved benefits to its employees' support for and activities on behalf of the Union or because they engage in union activities.
- (j) Informing its employees that it would be futile to support the Union.
- (k) Threatening its employees that it will not bargain in good faith with the Union if its employees select the Union as their bargaining representative.
- (l) Threatening its employees by any means with a loss of employment, denial of promotions, discipline, or other reprisals if they speak with Union representatives or join, support or engage in activities on behalf of the Union.
- (m) Unlawfully disparaging the Union in order to dissuade its employees from supporting the Union.
- (n) Threatening its employees by inviting them to quit their employment because of their Union activities or by asking them about being discharged by former employers.
- (o) Promising or granting its employees improved wages, hours, and other terms and conditions of employment through the creation and institution of its certified trainer position.
- (p) Promising or granting its employees improved pay and benefits through the institution of its safety bingo program.
- (q) Maintaining a rule that prohibits its employees from discussing their wages with fellow employees and others.
- (r) Promising or offering its employees wage increases or promotions, including promotions to the positions of supervisor, certified trainer, lead, or other supervisory or higher-paid positions to dissuade its employees from engaging in union and concerted activities.
- (s) Offering to or threatening its employees with transfers and promotions to isolate employees from fellow employees for the purpose of interfering with their union and concerted activities.

- (t) Threatening its employees by unlawfully threatening Union representatives in the presence of employees that they are trespassing while at or in the vicinity of the Respondent's facilities.
- (u) Threatening its employees by summoning the police to the vicinity of the Respondent's facilities during or because employees engaged in lawful concerted or union activity.
- (v) Threatening to challenge its employees' unemployment insurance claims because of their union and concerted activities, except where lawfully permitted.
- (w) Promulgating or maintaining a rule requiring employees to surrender their personal phones to the Respondent so that the Respondent can discover and ascertain with whom its employees speak and text; engaging in unlawful surveillance by such conduct; or threatening its employees by enforcement of such a rule.
- (x) In any other like or related manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form labor organizations, to join or assist any labor organization, to bargain collectively through representatives of their own choosing and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities.
- (y) Discharging its employees or in any other manner discriminating in regard to hire or tenure of employment or any other term or condition of employment, in order to discourage membership in United Food and Commercial Workers Union Local 99, AFL-CIO or in any other labor organization.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

- (a) Within five (5) days of the Board's Order, offer, in writing, Isabell Marquez, Hamid Amiri, Yadu Rijal, and Geoffrey Kachiolwa immediate reinstatement to their former respective positions, or if those positions no longer exist, to substantially equivalent positions of employment, without prejudice to their seniority or other rights and privileges.
- (b) Immediately offer Narayan Timsina promotion to the position he was allegedly denied, or if such position no longer exists, to a substantially equivalent position of employment, without prejudice to his seniority or other rights and privileges.

- (c) Make whole Isabell Marquez for any loss of pay she may have suffered by reason of the alleged discrimination against her, by payment to her of \$8,462.00, plus additional backpay which may have accrued on or after October 4, 2011, to be calculated by the Regional Director for Region 28 (the Regional Director) using standard Board formulae.
- (d) Make whole Yadu Rijal for any loss of pay he may have suffered by reason of the alleged discrimination against him, by payment to him of \$6,164.00, plus additional backpay which may have accrued on or after October 4, 2011, to be calculated by the Regional Director using standard Board formulae.
- (e) Make whole Geoffrey Kachiolwa for any loss of pay he may have suffered by reason of the alleged discrimination against him, by payment to him of \$2,373.00, plus additional backpay which may have accrued on or after October 4, 2011, to be calculated by the Regional Director using standard Board formulae.
- (f) Make whole Hamid Amiri, who has waived his right to reinstatement, for any loss of pay he may have suffered by reason of the alleged discrimination against him, by payment to him of \$6,041.00, plus additional backpay which may have accrued on or after October 4, 2011, to be calculated by the Regional Director using standard Board formulae.
- (g) Make whole Aaron Rhodes for any loss of pay he may have suffered by reason of the alleged discrimination against him, by payment to him of the amount of backpay to be calculated by the Regional Director using standard Board formulae.
- (h) Make whole Narayan Timsina for any loss of pay he may have suffered by reason of the alleged discrimination against him, by payment to him of the amount of backpay to be calculated by the Regional Director using standard Board formulae.
- (i) Within 14 days of the Board's Order, remove from the Respondent's files any reference to the discharges of Isabell Marquez, Yadu Rijal, Hamid Amiri, and Geoffrey Kachiolwa and within 3 days thereafter, notify them in writing that this was done and that the discharges will not be used against them in any way.
- (j) Within 14 days of the Board's Order, remove from the Respondent's files any reference to the May 2011 final warning issued to Aaron Rhodes and within 3 days thereafter, notify him, in writing, that this was done and that the discipline will not be used against him in any way.

- (k) Upon approval of this stipulation by the Board and receipt of the Notice(s) from the Region, which may include Notice(s) in more than one language as deemed appropriate by the Regional Director, the Respondent will post in conspicuous places in and about its facility in Mesa, Arizona, and in conspicuous places in and about its jobsite at the Sky Harbor International Airport in Phoenix, Arizona ("Respondent's Jobsite"), including all terminals and the rental car center where the Respondent occupies its offices, break rooms and other related areas, including all places where notices to employees are customarily posted, and maintain for 60 consecutive days from the date of posting, copies of the attached Notice marked "Appendix"¹ (and versions in other languages as deemed appropriate by the Regional Director) made a part hereof, said Notice(s) to be signed by a responsible official of the Respondent and the date of actual posting to be shown thereon.
- (l) In addition to physical posting of paper Notices, Notices shall be distributed electronically, such as by e-mail, posting on an intranet or an internet site, or other electronic means, if the Respondent customarily communicates with its employees by such means. The electronic posting shall remain posted for 60 consecutive days from the date it was originally posted. The Respondent will e-mail the Region's Compliance Officer at Miguel.Rodriguez@nlrb.gov with a link to the electronic posting location on the same day as the posting. In the event that passwords or other log-on information is required to access the electronic posting, the Respondent agrees to provide such access information to the Region's Compliance Officer. If the Notice is distributed via e-mail, the Respondent will forward a copy of the e-mail distributed to the Regional Compliance Officer.
- (m) The Notice(s) will be read aloud by a responsible agent of the Respondent, by or in the presence of Myron Luckenbach, Michael Venturella, Wade Lewis, Javier Diaz, the successor to any of these individuals, or by an agent of the Board in the presence of Myron Luckenbach, Michael Venturella, Wade Lewis, Javier Diaz or his successor to all employees employed by the Respondent at the Respondent's Jobsite, including at multiple meetings and in Spanish and other languages, if necessary as determined by the Regional Director, to ensure that it is read aloud to all employees, within 14 days from the commencement of the standard posting period.

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted By Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

- (n) This stipulation is subject to the approval of the Board and, immediately upon the approval by the Board, it will be retroactively effective to the date of execution of the stipulation.
- (o) Within 21 days after service by Region 28, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., December 16, 2011

Mark Gaston Pearce, Chairman

Craig Becker, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A
CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF
APPEALS

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 do anything that interferes with these rights. More particularly:

WE WILL NOT try to stop you from participating in concerted activities. These activities include discussing your working conditions with fellow employees and others. Your working conditions include, but are not limited to, how much we pay you, the benefits that we provide to you, and how we treat and discipline you. You have the right to make common complaints with your fellow employees and others about your working conditions, including the way our executives, managers, human resources personnel, and supervisors treat and discipline you. **WE WILL NOT** try to stop you from engaging in these or other discussions and complaints relating to your pay, benefits, working conditions, and our executives, managers, human resources personnel, and supervisors.

WE WILL NOT discharge you or in any other manner discriminate in regard to your hire or tenure of employment or any other term or condition of your employment because of your activities on behalf of or support for the **UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 99** (the Union), or any other labor organization.

WE WILL NOT maintain in our Employees' Handbook for Hourly Employees, or anywhere else, the following rule:

At pages 5 and 6:

You are required to read, understand, and comply with all provisions of the handbook. Any questions concerning the written material should be discussed with your supervisor or Human Resources Department.

This handbook is the exclusive property of GCA and is to be used for internal business purposes only. The contents of this handbook should not be distributed or disclosed to anyone outside of GCA.

WE WILL NOT maintain in our Employees' Handbook for Hourly Employees, or anywhere else, the following rule:

At page 23:

No Solicitation and No Distribution

Because of the need to maintain an atmosphere conducive to our goals of high quality service and employee productivity, the Company has adopted regulations with regard to solicitations and distributions on Company property.

Non-employees are not allowed to solicit or distribute materials for donations on Company property, nor are they allowed to solicit employees or the public for the purpose of urging or encouraging them to purchase any items.

You, as an employee, are not permitted to encourage or solicit membership in fraternal, civic, religious, or other organizations on work time or in work areas.

WE WILL NOT maintain in our Employees' Handbook for Hourly Employees, or anywhere else, the following rule:

At page 24:

Loitering

To prevent interruption of the work schedules of others, you will be expected to leave the premises immediately following the completion of your working hours. However, you must not leave your work-station before your shift ends without the permission of your supervisor. The practice of having children or other members of your family or friends waiting for you at the jobsite or areas other than public waiting rooms is against Company policy.

WE WILL NOT detain and interrogate you about your union membership, activities, and sympathies or the union membership, activities and sympathies of other employees.

WE WILL NOT promulgate or enforce unlawful rules that prohibit you from engaging in concerted activities, distributing union literature, speaking about the union, or speaking with union representatives.

WE WILL NOT create the impression among you by any means that your union and concerted activities are under surveillance.

WE WILL NOT engage in any form of surveillance of you to discover your union and concerted activities.

WE WILL NOT solicit complaints and grievances in any manner from you and make promises to remedy your complaints and grievances if you refrain from supporting the Union.

WE WILL NOT promise or announce to you improved pay or benefits in order to dissuade you from supporting the Union.

WE WILL NOT threaten you that we will not discuss with or grant you pay raises or improved benefits until you cease support for and activities on behalf of the Union.

WE WILL NOT attribute our failure and inability to grant pay raises or improved benefits to your support for and activities on behalf of the Union or because you engage in union activities.

WE WILL NOT inform you that it would be futile to support the Union.

WE WILL NOT threaten you that we will not bargain in good faith with the Union if you select the Union as your bargaining representative.

WE WILL NOT threaten you by any means with a loss of employment, denial of promotions, discipline, or other reprisals if you speak with Union representatives or join, support or engage in activities on behalf of the Union.

WE WILL NOT unlawfully disparage the Union in order to dissuade you from supporting the Union.

WE WILL NOT threaten you by inviting you to quit your employment because of your Union activities or by asking you about being discharged by former employers.

WE WILL NOT promise or grant to you improved wages, hours, and other terms and conditions of employment through creation and institution of our certified trainer position.

WE WILL NOT promise or grant you improved pay and benefits through the institution of our safety bingo program.

WE WILL NOT maintain a rule that prohibits you from discussing your wages with fellow employees and others.

WE WILL NOT promise or offer to you wage increases or promotions, including promotions to the positions of supervisor, certified trainer, lead, or other supervisory or higher-paid positions to dissuade you from engaging in union and concerted activities.

WE WILL NOT offer to or threaten you with transfers and promotions to isolate you from fellow employees for the purpose of interfering with their union and concerted activities.

WE WILL NOT threaten you by unlawfully threatening Union representatives in your presence that they are trespassing while at or in the vicinity of our facilities.

WE WILL NOT threaten you by summoning the police to the vicinity of our facilities during or because you engaged in lawful concerted or union activity.

WE WILL NOT threaten to challenge your unemployment insurance claims because of your union and concerted activities, except where lawfully permitted.

WE WILL NOT promulgate or maintain a rule requiring you to surrender your personal phones to us so that we can discover and ascertain with whom you speak and text; engage in unlawful surveillance by such conduct; or threaten you by enforcement of such a rule.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights listed above.

WE WILL rescind and give no effect to the unlawful rules described above, and **WE WILL** furnish all employees on a nationwide basis with inserts for the current edition of the Employees' Handbook for Hourly Employees that advise that the unlawful rules have been rescinded, or provide the language of lawful rules; or, alternately, publish and distribute to all current employees on a nationwide basis, a revised Employees' Handbook for Hourly Employees that does not contain the unlawful rules, or provides the language of lawful rules.

WE WILL immediately offer, in writing, to reinstate **Isabell Marquez, Yadu Rijal, Hamid Amiri, and Geoffrey Kachiolwa** to their former jobs, or if those jobs no longer exist, to substantially equivalent positions of employment, without prejudice to their seniority or other rights and privileges.

WE WILL immediately make **Isabell Marquez, Yadu Rijal, Hamid Amiri, and Geoffrey Kachiolwa** whole with interest, compounded on a daily basis, for the wages and benefits they lost because we terminated them.

WE WILL immediately make **Aaron Rhodes** whole, with interest, compounded on a daily basis, for any loss of pay he may have suffered by reason of the alleged discrimination against him.

WE WILL immediately offer **Narayan Timsina** promotion to the position he was allegedly denied, or if such position no longer exists, to a substantially equivalent position of employment, without prejudice to his seniority or other rights and privileges, and **WE WILL** immediately make **Narayan Timsina** whole with interest, compounded on a daily basis, for any loss of pay he may have suffered by reason of the alleged discrimination against him.

WE WILL remove from our files any reference to the discharges of **Isabell Marquez, Yadu Rijal, Hamid Amiri, and Geoffrey Kachiolwa** and **WE WILL** notify them in writing that this has been done and that the discharges will not be used against them in any way.

WE WILL remove from our files any reference to the May 2011 final warning that we issued to **Aaron Rhodes** and **WE WILL** notify him in writing that this has been done and that the discipline will not be used against him in any way.

GCA SERVICES GROUP, INC.
(Employer)

DATE: _____ BY: _____
(Representative) (Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov

Telephone: (602) 640-2198
2600 North Central Avenue, Ste 1800
Phoenix, AZ 85004-3099
Hours of Operation: 8:15 a.m. to 4:45 p.m.