

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

G4S GOVERNMENT SOLUTIONS, INC.
Employer

and

Case 5-UD-086913

DON ALLEN BENNETT
Petitioner

and

INTERNATIONAL UNION FEDERAL
CONTRACT GUARDS OF AMERICA (FCGOA)
Union

REPORT ON OBJECTIONS AND
NOTICE OF HEARING

Pursuant to a Decision of Election¹ issued on September 11, 2012,² a secret-ballot election was conducted by mail between September 20, and October 11, under my supervision with the tally of ballots issued on October 11, with the following results:

Approximate number of eligible voters	244
Void ballots	10
Votes cast in favor of withdrawing the authority of the bargaining representative to require, under its agreement with the Employer, that employees make certain lawful payments to the Union in order to retain their jobs	91
Votes cast against the above proposition	16
Valid votes counted	107
Challenged ballots	4
Valid votes counted plus challenged ballots	111

¹ The unit is: "All full-time and regular part-time Justice Protective Service Officers (JPSOs) assigned to the Department of Justice's contract in the National Capitol Area excluding all other employees employed by the Employer, office and/or clerical employees, professional employees, temporarily assigned employees, substitute employees, managerial employees, and supervisors as defined by the Act. The eligibility period is the payroll period ending September 2, 2012.

² Unless otherwise specified, all dates are 2012.

On October 18, the Petitioner filed timely objections to conduct affecting the results of the election.³

THE OBJECTIONS

The Employer failed to post the Notice to Employees by the required deadline of September 17, 2012 at 12:01 a.m.

In support of its Objection, the Petitioner relies upon an e-mail exchange between the Petitioner and one of the Employer's Project Managers. According to the Petitioner, on September 17, the Employer failed to post the Notice to Employees until after 6:00 p.m. The Petitioner provided a chain of e-mails in support of its Objection. The e-mails are between the Petitioner and a manager for the Employer. In the e-mails, the Petitioner asks the manager about the Notices and the manager replies that he knows nothing about the Notices. The Petitioner then received an e-mail after 6:00 p.m. from the manager stating that the Notices had been posted. The Petitioner states that the e-mails show that the Employer did not know about the Notices or that they needed to be posted by a certain time. The Petitioner asserts that this is evidence that the Employer failed to post the Notices by the deadline.

The Union has stated that the Petitioner has failed to provide sufficient evidence in support of its objection. The Union states that the Petitioner's evidentiary e-mails fail to show that the Employer failed to post the Notices by the stated deadline. The Employer denies it engaged in any objectionable conduct.

³ The petition was filed on August 9, 2012. I will consider on its merits only that alleged interference which occurred during the critical period which begins on and includes the date of the filing of the petition and extends through the election. Goodyear Tire and Rubber Company, 138 NLRB 453.

I find that substantial and material issues of fact have been raised which may best be resolved by record evidence. Therefore, a hearing is warranted with respect to whether the Notices to Employees were posted.

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 the Washington Regional Office in the conference room, Room 6300, National Labor Relations Board, 1099 14th St NW, Washington, DC, on the 19th day of November 2012, and continuing on 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 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 exceptions with the Board in Washington, DC. 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 7th day of November, 2012.

(SEAL)

/s/Wayne R. Gold

Wayne R. Gold, Regional Director
National Labor Relations Board, Region 5
Bank of America Center – Tower II
100 South Charles Street, Suite 600
Baltimore, MD 21201

Right to File Exceptions: Pursuant to the provisions of Section 102.69 of the National Labor Relations Board's Rules and Regulations, Series 8, as amended, you may file exceptions to this Report with the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570-0001. Under the provisions of Section 102.69(g) of the Board's Rules, documentary evidence, including affidavits, which a party has timely submitted to the Regional Director in support of its objections or challenges and that are not included in the Report, is not part of the record before the Board unless appended to the exceptions or opposition thereto by that the party files with the Board. Failure to append to the submission to the Board copies of evidence timely submitted to the Regional Director and not included in the Report shall preclude a party from relying on that evidence in any subsequent related unfair labor practice proceeding.

Procedures for Filing, Exceptions: Pursuant to the Board's Rules and Regulations, Sections 102.111 - 102.114, concerning the Service and Filing of Papers, exceptions must be received by the Executive Secretary of the Board in Washington, D.C. by close of business on **November 21, 2012**, at 5:00 p.m. (ET), unless filed electronically. Consistent with the Agency's E-Government initiative, parties are encouraged to file exceptions electronically. If exceptions are filed electronically, the exceptions 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 exceptions by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file.⁴ A copy of the exceptions must be served on each of the other parties to the proceeding, as well as to the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing exceptions 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, and then click on the E-filing link on the pull down menu. Click on the "File Documents" button under the Board/Office of the Executive Secretary and then follow the directions. The responsibility for the receipt of the exceptions rests exclusively with the sender. A failure to timely file the exceptions will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

⁴ A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, D.C., and a copy so 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.