

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

COASTAL INTERNATIONAL SECURITY, INC.  
Employer

and

Case 5-RC-107719

INTERNATIONAL UNION, SECURITY, POLICE AND  
FIRE PROFESSIONALS OF AMERICAN (SPFPA)  
Petitioner

and

UNITED SECURITY & POLICE OFFICERS OF  
AMERICA (USPOA)  
Intervenor

**REPORT ON OBJECTIONS**

Pursuant to a Stipulated Election Agreement<sup>1</sup> approved on July 1, 2013<sup>2</sup> a secret-ballot election was conducted on July 25 with the following results:

Approximate number of eligible voters	59
Number of Void ballots	0
Number of Votes cast for Petitioner	19
Number of Votes cast for Intervenor	14
Number of Votes cast against participating labor organization	0
Number of Valid votes counted	33
Number of Challenged ballots	0
Number of Valid votes counted plus challenged ballots	33
Challenges are not sufficient in number to affect the results of the election.	

On August 20<sup>3</sup>, the Intervenor filed timely objections to the election.<sup>4</sup>

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<sup>1</sup> The unit description is as follows: “All nonsupervisory security guards employed by the Employer at the U.S. Department of Commerce building, located in Washington, D.C., but excluding all other employees, project manager, major, captain, lieutenants, office/clerical employees, professional employees, and supervisors as defined by the Act.” The eligibility period is the payroll period ending June 22, 2013.

<sup>2</sup> All dates are 2013 unless otherwise noted.

<sup>3</sup> The objections were timely filed on August 20. The July 25 election had been blocked by 05-CA-107970, which the Intervenor later withdrew.

## THE OBJECTIONS

### **Objection 1**

The Employer allowed the Petitioner the run of the facility on July 25, 2013. The Petitioner's agents were allowed to walk around the site from post to post to solicit the bargaining unit members while they were on duty. The Petitioner's agents were permitted on the premises to do a get out the vote drive on the day of the election. As a result, they dominated the election environment unlawfully and perturbed the bargaining unit employees' right to vote freely.

### **Objection 2**

The Employer unlawfully took Lonnie Davis, a USPOA Local 100 Recording Secretary, off the contract temporarily so that she could not vote or support the USPOA campaign effort. As a result she neither voted nor helped the local union through the election process.

### **Objection 3**

The Employer brought back Sheila Boyd from suspension to campaign against the Intervenor while others, who were suspended under the same circumstances, remained off the contract and were not allowed to vote. As a result, several employees missed the opportunity to participate in the election.

### **Objection 4**

The Employer terminated several bargaining unit employees so they would not vote for the Intervenor. As a result, Officers Christopher Myers, Timidayo, Don Nicholson, and Seth Campbell could not vote for the Intervenor.

### **Objection 5**

The Employer assigned its lieutenants to intimidate, coerce, and threaten to terminate bargaining unit employees, who support USPOA. Such actions have interfered with the employees' ability to vote with a clear mind. Many employees did not vote because of such actions.

### **Objection 6**

The Petitioner sent its agents on the day of the election to campaign from post to post to pass out derogatory and slanderous literature against the Intervenor to the bargaining unit employees. The Petitioner created an unviable environment for a fair and equitable election by launching a slanderous campaign against the Intervenor on the day of the election.

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<sup>4</sup> The petition was filed on June 21. I will consider on the merits only the alleged interference which occurred during the critical period which runs from the date of filing through the election. *Goodyear Tire and Rubber Co.*, 138 NLRB 453, 455 (1962).

### **Objection 7**

The Petitioner distributed on the day of the election disparaging, inflammatory and defaming information to coerce and dissuade the bargaining unit members from voting for the Intervenor. As a result, many employees were afraid of voting and others could not vote properly.

### **Objection 8**

The Petitioner distributed slanderous material to the bargaining unit inside the facility on several occasions to dissuade the employees from voting for the Intervenor. The material the Petitioner gave out is false, destructive, and alarming. As a result, employees did not vote for the Intervenor and others were in a state of confusion and eventually failed to vote.

### **ANALYSIS**

The Intervenor timely filed its objections on August 20, but it failed to supply any evidence whatsoever supporting those objections. The Intervenor's evidence in support of its objections was due in the Regional Office by the close of business on August 26. The Intervenor did not request an extension of time to provide its evidence. Section 102.69(a) of the Board's Rules and Regulations provides, in pertinent part, that a party filing objections to conduct affecting the results of an election must supply its evidence "within 7 days after the filing of objections, or such additional time as the Regional Director may allow...." The Board applies the deadline in the regulation strictly. *Star Video Entertainment*, 290 NLRB 1010 (1988).

A post-election hearing is granted only when the party filing objections has supplied *prima facie* evidence raising "substantial and material issues" that would warrant setting aside the election. *NLRB v. Tio Pepe, Inc.*, 629 F.2d 964, 968 (4<sup>th</sup> Cir. 1980). If the objecting party does not submit its supporting evidence within the time required by the regulation, the objections will be dismissed. *Kano Trucking Serv.*, 295 NLRB 514, 515 (1989). The objecting party cannot rely upon "the Board staff to seek out evidence that would warrant setting aside the election." *NLRB v. U.S. Rubber Co.*, 373 F.2d 602, 606 (5<sup>th</sup> Cir. 1967). The objecting party,

itself, must submit the prima facie evidence, and that evidence must be of the kind “which would be admissible into evidence at a hearing and subjected to evaluation as to its weight and probative force.” *Grants Furniture Plaza, Inc.*, 213 NLRB 410, 410 (1974). The burden placed on the objecting party for the submission of its supporting evidence is a heavy one, as the objecting party must provide specific supporting evidence. *NLRB v. Claxton Mfg., Co.*, 613 F.2d 1364, 1366 (5<sup>th</sup> Cir. 1980). Conclusory allegations and mere accusations are not sufficient. Because the Intervenor here did not provide any evidence, such as affidavits from witnesses with personal knowledge, the names of potential witnesses, or documentary evidence, the objections themselves contain the only facts available to determine whether substantial and material issues exist which would warrant setting aside the election. Based on the objections alone, I do not find sufficient facts to require a hearing.<sup>5</sup>

#### CONCLUSION

In light of the foregoing, I recommend that the Intervenor’s objections, which contain nothing more than mere accusations, be overruled in their entirety and that the appropriate Certification of Representative issue.

Dated at Baltimore, Maryland, this 30<sup>th</sup> day of August 2013.

/s/ WAYNE R. GOLD

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<sup>5</sup> In addition, Objection 4 alleges matters that the Board will not consider in the absence of a timely filed unfair labor practice charge. See *Texas Meat Packers*, 130 NLRB 279 (1961); see also *McLean Roofing Co.*, 276 NLRB 830 n.1 (1985).

***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 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 **September 13, 2013** at 5 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 filed by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file.<sup>6</sup> 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.nlrb.gov](http://www.nlrb.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 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.

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<sup>6</sup> 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.