

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2

Action Environment Systems, LLC,  
Action Environmental Solutions, LLC, and  
Action Carting Environmental Service, Inc.<sup>1</sup>  
Employer

and

Case No: 02-RC-126999

Waste Material Recycling & General Industrial Laborers  
Local 108 LIUNA  
Petitioner

and

Local 660 United Workers of America  
Intervenor

Local 1212, United Service Workers Union,  
International Union of Journeymen and Allied Trades  
Intervenor

DECISION AND DIRECTION OF ELECTION

Upon a petition filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its authority in this proceeding to the Regional Director, Region 2.

Upon the entire record<sup>2</sup> in this proceeding, it is found that:

1. The Hearing Officer's rulings are free from prejudicial error and hereby are affirmed.

2. The parties stipulated and I find that Action Environment Systems, LLC, Action Environmental Solutions, LLC, and Action Carting Environmental Service, Inc., ("the Employer") a New Jersey corporation with an office and principal place of business located at 300 Frank W. Burr Boulevard, Ste. 39, Teaneck, New Jersey, 07666, and facilities located at 315 Casanova Street, Bronx, NY; 400 Casanova Street, Bronx, NY, and 941 Stanley Avenue, Brooklyn, NY, the only facilities involved herein, is engaged in the operation of waste and recycling collection services. Annually, in the course and conduct of its business operations, the Employer derives gross revenues in excess of \$50,000, and purchases and receives goods and

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<sup>1</sup> By stipulation, the parties amended the formal documents to correctly reflect the names of the parties.

<sup>2</sup> The parties waived filing briefs.

materials valued in excess of \$5,000, directly from suppliers located outside the State of New York.

Accordingly, I find that the Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The parties stipulated that Waste Material Recycling & General Industrial Laborers, Local 108 LIUNA, (“the Petitioner”), is a labor organization within the meaning of Section 2(5) of the Act.

Accordingly, I find that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

The parties further stipulated that Local 660 United Workers of America, (“Local 660 Intervenor”), is a labor organization within the meaning of Section 2(5) of the Act.

Accordingly, based on that stipulation, I find that the Local 660 Intervenor is a labor organization within the meaning of Section 2(5) of the Act.

The parties further stipulated that Local 1212, United Service Workers Union, International Union of Journeymen and Allied Trades (“Local 1212 Intervenor”), is a labor organization within the meaning of Section 2(5) of the Act.

Accordingly, based on that stipulation, I find that the Local 1212 Intervenor is a labor organization within the meaning of Section 2(5) of the Act.

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

5. In the instant proceeding, the parties stipulated, and I find, that the following unit is an appropriate unit within the meaning of Section 9(b)(3) of the Act:

INCLUDED: All full-time and regular part-time laborers, pickers, sorters, traffic controllers, mechanics, mechanic helpers, equipment operators, welders, recycling drivers and helpers, roll off drivers, tractor trailer drivers and painters at the following locations: 315 Casanova Street, Bronx, NY; 400 Casanova Street, Bronx, NY; and 941 Stanley Avenue, Brooklyn, NY

EXCLUDED: All other employees, including but the billing clerk/cash management and accounts receivable position, guards, and professional employees and supervisors as defined in the Act.

#### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board’s Rules and Regulations. Eligible to vote are those in the unit who were employed an average of 4 hours per week in the 13 week period prior to the date of the

last payroll period ending immediately preceding 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 strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether they desire to be represented for collective bargaining purposes by Waste Material Recycling & General Industrial Laborers Local 108 LIUNA, or by Local 660 United Workers of America, or by Local 1212, United Service Workers Union, International Union of Journeymen and Allied Trades, by no labor organization.

### NOTICE OF ELECTION

Please be advised that the Board has adopted a rule requiring that election notices be posted by the Employer at least three working days prior to an election. If the Employer has not received the notice of election at least five working days prior to the election date, please contact the Board Agent assigned to the case or the election clerk.

A party shall be estopped from objecting to the non-posting of notices if it is responsible for the non-posting. An Employer shall be deemed to have received copies of the election notices unless it notifies the Regional office at least five working days prior to 12:01 a.m. of the day of the election that it has not received the notices. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure of the Employer to comply with these posting rules shall be grounds for setting aside the election whenever proper objections are filed.

### LIST OF VOTERS

To insure that all eligible voters 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 directed that 2 copies of an eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the undersigned within 7 days from the date of this Decision. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The undersigned shall make this list available to all parties to the election. In order to be timely filed, such list must be received in Region 2's Office, 26 Federal Plaza, Room 3614, New York, New York 07728, on or before **May 27, 2014**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed. Failure to comply with this requirement shall be ground for setting aside the election whenever proper objections are filed.

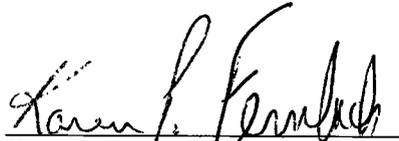
### RIGHT TO REQUEST REVIEW

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 DC 20570. This request must be received by the Board in Washington by **June 2, 2014**.

In the Regional Office's initial correspondence the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file one of the documents which may not be filed electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. Guidance for E-filing can also be found on the National Labor Relations Board web site at [www.nlr.gov](http://www.nlr.gov). On the home page of the website, select the E-Gov<sup>3</sup> tab and click on E-Filing. Then select the NLRB office for which you wish to E-File your documents. Detailed E-filing instructions explaining how to file the documents electronically will be displayed.

DATED at New York, New York this 19th day of May, 2014.

  
Karen P. Fernbach  
Regional Director  
National Labor Relations Board  
Region 2  
26 Federal Plaza, Room 3614  
New York, NY 10278

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<sup>3</sup> To file the request for review electronically, go to [www.nlr.gov](http://www.nlr.gov) and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Board/Office of the Executive Secretary** and click on the "File Documents" button under that heading. A page then appears describing the E-Filing terms. At the bottom of this page, check the box next to the statement indicating that the user has read and accepts the E-Filing terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the request for review, and click the "Submit Form" button. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Board's web site, [www.nlr.gov](http://www.nlr.gov).