

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12**

WHITESTONE GROUP, INC.,

Employer

and

UNION SECURITY GUARDS ASSOCIATION,

Case 12-RC-127950

Petitioner

and

GOVERNMENT SECURITY GUARDS ASSOCIATION,

Union

**DECISION AND DIRECTION OF ELECTION**

Whitestone Group, Inc. (the Employer) is engaged in providing security guard services to the United States government, principally to the Federal Aviation Administration and the Department of Homeland Security in Carolina, Puerto Rico. On May 5, 2014, Union Security Guards Association (the Petitioner) filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act, seeking to represent the following unit of employees:

All full-time and part-time security officers employed by the Employer at its Carolina, Puerto Rico facility, specifically those security guards working for FAA/DHS; excluding all other employees, supervisors, and confidential employees as defined by the Act.

Government Security Guard Association (the Union) and the Employer are parties to a collective-bargaining agreement that expires by its terms on July 31, 2014.

Pursuant to a Notice of Hearing served on the Employer, the Petitioner and the Union, on May 5, 2014, the hearing in this matter was conducted on May 19, 2014. The Employer and

the Petitioner appeared at the hearing and were given an opportunity to present witnesses and other evidence at the hearing. The Union did not appear at the hearing.<sup>1</sup>

No substantive issues were raised by the Employer or the Petitioner during the hearing.<sup>2</sup> Based on the stipulations of the parties and the record as a whole, I find that a question concerning representation exists and shall direct an election.

**I. Findings and Conclusions**

A. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are affirmed.

B. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.<sup>3</sup>

C. The Petitioner claims to represent certain employees of the Employer.<sup>4</sup>

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

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<sup>1</sup> In a telephone conversation on May 18, 2013, the day before the hearing, the Union's president acknowledged receipt of the Notice of Representation Hearing and informed the Hearing Officer that she was ill and would not appear at the hearing. The Hearing Officer explained the procedure for requesting a postponement of the hearing to the Union's president, and the Union's president then said that she might attend the hearing. The Union did not file a motion to postpone the hearing. On May 19, 2013, the Hearing Officer delayed the opening of the hearing for thirty minutes to wait for a representative of the Union to appear, but, as noted, no representative of the Union appeared at the hearing.

<sup>2</sup> None of the parties filed a brief.

<sup>3</sup> The Employer and the Petitioner stipulated, and I find, that the Employer is an employer engaged in commerce within the meaning of Section 2(6) and 2(7) of the Act; that the Employer is an Ohio corporation engaged in the business of providing security guard services; and that during the previous 12 months the Employer purchased goods and materials valued in excess of \$50,000 directly from points outside of Commonwealth of Puerto Rico, and caused said goods and materials to be transported to its place of business in San Juan, Puerto Rico.

<sup>4</sup> The Employer and the Petitioner stipulated that the Petitioner and the Union are each labor organizations within the meaning of Section 2(5) of the Act. Record testimony further establishes that employees participate in the Petitioner, that the Petitioner was established for the purpose of representing its members, and that if it is certified the Petitioner intends to represent employees with regard to grievances, labor disputes, wages, rates of pay, hours of employment, and conditions of work. Based on the stipulation and the record as a whole, I find that the Petitioner and the Union are each labor organizations within the meaning of Section 2(5) of the Act.

E. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time security officers assigned to the Federal Aviation Administration/Department of Homeland Security ("FAA/DHS") within the CERAP Carolina, Puerto Rico, employed by the Employer pursuant to its contract with the Federal Government; excluding all other employees, managers, office and/or clerical employees, temporarily assigned employees, substitute employees, non-security employees of the Employer, and supervisors as defined in the Act.<sup>5</sup>

Based upon the foregoing, and the record as a whole, I shall direct an election in the above-described unit.

## **II. Direction of Election**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether they wish to be represented for purposes of collective bargaining by Union Security Guards Association, by Government Security Officers Association, or by neither labor organization. The date, time, and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

### **A. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending immediately before 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

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<sup>5</sup> I find that the bargaining unit described in the petition is essentially the same as the bargaining unit contained in the collective-bargaining agreement between the Employer and the Union. The Employer and the Petitioner stipulated that this collective-bargaining agreement is set to expire by its terms on July 31, 2014. It appears that the parties' intent was to agree to the unit description set forth in collective-bargaining agreement, and I find that said unit is an appropriate unit for the purposes of collective bargaining.

who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in military service of the United States may vote if they appear in person at the polls. Ineligible to vote are (1) employees who have quit or have been discharged for cause since the designated payroll period; (2) 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 (3) employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.

#### **B. Employer to Submit List of Eligible Voters**

To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of the 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); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list containing the full names and addresses of all eligible voters. *North Macon Health Care Facilities*, 315 NLRB 359 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized. Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the National Labor Relations Board Subregion 24 Office, La Torre de Plaza, Suite 1002, 525 F.D. Roosevelt Avenue, San Juan, Puerto Rico 00918-1002, on or before June 13, 2014. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be

grounds for setting aside the election whenever proper objections are filed. Since the list will be made available to all parties to the election, please furnish three copies of the list.<sup>6</sup>

### C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of three full working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the Election Notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the Election Notice.

### IV. 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 14<sup>th</sup> Street, N.W. Washington, D.C. 20570-0001. This request must be received by **June 20, 2014**. The request may not be filed by facsimile, but may be filed electronically.<sup>7</sup>

DATED the 6<sup>th</sup> day of June, 2014.



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David Cohen, Acting Regional Director  
National Labor Relations Board, Region 12  
201 E. Kennedy Boulevard, Suite 530  
Tampa, Florida 33602

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<sup>6</sup> The list may be submitted electronically through the Agency's website at [www.nlr.gov](http://www.nlr.gov), or by facsimile transmission to (787) 766-5478, as well as by hard copy. To file the list electronically, go to the Agency's website at [www.nlr.gov](http://www.nlr.gov), select **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. Only one copy of the list should be submitted if it is filed electronically or by facsimile.

<sup>7</sup> See [www.nlr.gov](http://www.nlr.gov) for instructions about electronic filing and the Board's Rules and Regulations with respect to filing requirements generally.