

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

**FJC SECURITY SERVICES, INC.
Employer**

and

Case No. 22-RC-115634¹

**PROTECTIVE SECURITY OFFICERS ASSOCIATION
Petitioner**

SUPPLEMENTAL DECISION AND CERTIFICATION OF REPRESENTATIVE

This Supplemental Decision contains the Regional Director's findings and decision regarding the objections to the election filed by Service Employees International Union, Local 32BJ. In Objection 1, Local 32BJ contends that FJC Security Services, Inc. (Employer), engaged in objectionable conduct and unlawfully assisted Protective Security Officers Association, (Petitioner) by including five ineligible voters on the voter eligibility list, and permitting those individuals to vote even after being advised of their ineligibility. In Objection 2, Local 32BJ contends that the Petitioner engaged in objectionable conduct and accepted unlawful assistance from the Employer, by acquiescing to the inclusion of five ineligible voters on the voter eligibility list, and failing to advise the Region of these employees' ineligibility at the vote count. As described below, I have overruled the objections based upon procedural grounds which preclude Local 32BJ from filing objections in this matter.

PROCEDURAL BACKGROUND

Pursuant to a Decision and Direction of Election issued on January 17, 2014, an election by secret ballot was conducted by mail between February 14 and 28, 2014, in the following unit of employees:

¹ The petition was transferred to Region 2 on October 28, 2013, and it continued with the original case number.

All full-time and regular part-time guards employed by FJC at the U.S. government office buildings listed below, pursuant to FJC's security services contract with the U.S. Federal Protective Service, Contract No. HSCEE2-08-A-0003: 20 Washington Place, Newark, NJ; 970 Broad Street, Newark, New Jersey; 200 Federal Plaza, Paterson, NJ; 1200 Wall St. W. Lyndhurst, NJ; 620 Frelinghuysen Ave., Newark NJ; 614 Frelinghuysen Ave., Newark NJ; 1100 Raymond Blvd and 80 Mulberry Street, Newark, NJ; 11 Centre St., Newark, NJ; 200 Sheffield St., Mountainside, NJ; 165 Passaic Ave., Fairfield, NJ; 1719 C Route 10, Parsippany, NJ; 1 Kalisa Way, Paramus, NJ; 4 Paragon Way, Freehold, NJ; 100 Dey Place, Edison, NJ; 401 Hackensack Ave., Hackensack, NJ; 550 Jersey Ave., New Brunswick, NJ; 2200 Rte 10 W, Parsippany, NJ; 190 Middlesex Tpke., Iselin, NJ; 855 Lehigh Ave., Union, NJ; 935 Allwood Ave., Clifton, NJ; 15-33 Halstead St., East Orange, NJ; 274 Springfield Ave., Newark, NJ; 3310 Rt 66, Neptune, NJ; 79 Hudson Street, Hoboken, NJ, and 323 West Side Ave., Jersey City, NJ, but excluding all other employees, including office clerical employees, managers, sergeants, captains, and lieutenants, and professional employees and supervisors as defined in the Act.

In the Decision and Direction of Election, Local 32BJ's motion to intervene and appear on the ballot was denied by the undersigned because Section 9(b)(3) of the Act precludes certification of a labor organization as the representative of employees in a bargaining unit of guards if such organization, as is the case with Local 32BJ, admits to membership employees other than guards. On February 13, 2014, Local 32BJ filed a request for review regarding the denial of its motion to intervene. On May 30, 2014, the Board denied the request for review. Local 32BJ did not participate in the election conducted in this case.

The tally of ballots, which was made available to the parties following the ballot count conducted on June 5, 2014, shows the following results:

Approximate number of eligible voters.....	110
Number of void ballots.....	2
Number of votes cast for Petitioner.....	45
Number of votes cast against participating labor organization.....	44
Number of valid votes counted.....	89
Number of challenged ballots.....	0
Number of valid votes counted plus challenged ballots.....	89
Challenges are not sufficient in number to affect the results of the election.	
A majority of the valid votes counted plus challenged ballots has been cast for Petitioner.	

Although Local 32BJ did not participate in the election, on June 11, 2014, it filed timely objections to the conduct of the election. A copy of the objections is attached to this Supplemental Decision as Exhibit A.

Pursuant to Section 102.69 of the Board's Rules and Regulations, an administrative investigation of the objections was conducted. The basis for my decision to overrule the objections is set forth below.

LOCAL 32BJ LACKS STANDING TO FILE OBJECTIONS

Pursuant to Section 102.8 of the Rules and Regulations the term "party" shall mean the Regional Director in whose Region the proceeding is pending and *any person named or admitted as a party* (emphasis added). Section 102.69 of the Rules and Regulations provides, in relevant part, that "(w)ithin 7 days after the tally of ballots has been prepared, any party may file with the Regional Director an original and five copies of objections to the conduct of the election or to conduct affecting the results of the election, which shall contain a short statement of the reasons therefor." The Board has held that a union, to be a party within the meaning of the above-quoted section, must appear on the ballot. *Hellige, Inc.*, 96 NLRB 1216. (1951), citing *Celanese Corp of America*, 87 NLRB 552 (1949) (a union whose name does not appear on the ballot has no standing to file objections to the conduct of an election). As noted previously, Local 32BJ's request for review of the denial of its motion to intervene in this matter was denied by the Board on May 30, 2014. Accordingly, Local 32BJ did not appear as a choice on the ballot, and is not a party to the election.

Based on the foregoing, I find that Local 32BJ lacks standing to file objections in this matter.

CONCLUSION

Having found that Local 32BJ lacks standing to file objections in this matter, I hereby overrule the objections.

WHEREFORE, IT IS HEREBY CERTIFIED that a majority of the valid ballots has been cast for the Petitioner in the unit of employees described above.²

Signed at New York, New York
July 1, 2014



Karen P. Fernbach
Regional Director
National Labor Relations Board, Region 2
26 Federal Plaza, Room 3614
New York, New York 10278-0104

² Under the provisions of Section 102.69 and 102.67 of the Board's Rules and Regulations, a request for review of this Supplemental Decision and Certification of Representative may be filed with the Board in Washington D.C. by no later than July 15, 2014. Under the provisions of Section 102.69(g) affidavits which a party has timely submitted to the Regional Director in support of its objections and that are not included in the Supplemental Decision, are not part of the record before the Board unless appended to the request for review 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 Supplemental Decision shall preclude a party from relying on that evidence in any subsequent related unfair labor practice proceeding.

Procedures for Filing request for review: Pursuant to the Board's Rules and Regulations, Sections 102.111 – 102.114, concerning the Service and Filing of Papers, a request for review must be received by the Executive Secretary of the Board in Washington, D.C. by close of business on **July 15, 2014, at 5 p.m. (ET)**, unless filed electronically. **Consistent with the Agency's E-Government initiative, parties are encouraged to file a request for review electronically.** If a request for review is filed electronically, the request for review 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. If submitted by mail or sent by a delivery service, it must be received by the close of business at 5:00 p.m. Eastern Time on the due date, or be postmarked or given to the delivery service no later than July 14, 2014. Please be advised that Section 102.114 of the Board's Rules and Regulations precludes acceptance of a request for review filed by facsimile transmission. Upon good cause shown, the Board may grant special permission for a longer period within which to file. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. Filing a request for review 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 Board/Office of the Executive Secretary and then follow the directions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review 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.

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

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FJC SECURITY SERVICES, INC.
Employer,

and

PROTECTIVE SECURITY OFFICERS ASSOCIATION,
Petitioner,

Case No.: 22-RC-115634

and

SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL 32BJ
Intervenor.

-----X

OBJECTIONS TO MAIL BALLOT ELECTION

Pursuant to Section 102.69(a) of the Board's Rules and Regulations, Service Employees International Union Local 32BJ ("Local 32BJ"), by its undersigned counsel, submits the following objections to the mail ballot election that was conducted in the above-captioned certification proceeding. When the mail ballots were counted on June 5, 2014, there were 45 votes counted in favor of Protective Security Officers Association ("PSOA"), 44 "No" votes against representation by PSOA, and two ballots that were voided because the exterior envelopes were not signed.

OBJECTION ONE

The Employer, FJC Security Services ("FJC") engaged in objectionable conduct and unlawful assistance to PSOA by including i) at least three sergeants and captains on the voter eligibility list, even though these classifications were expressly excluded from the Unit, and ii) at least two employees who were not eligible to vote because they were not working in the Unit during the eligibility period. When made aware of these improprieties and that ineligible

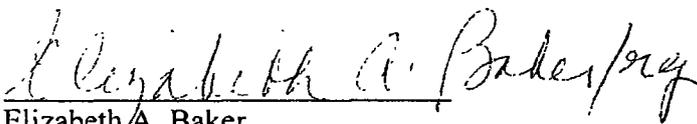
employees were casting ballots, FJC failed (or refused) to advise the Region that these employees were ineligible to vote. As a result of this objectionable conduct and unlawful assistance, at least five ineligible employees were permitted to cast votes in this election and affect the outcome.

OBJECTION TWO

Petitioner, PSOA engaged in objectionable conduct and accepted unlawful assistance when it acquiesced in FJC's inclusion of i) at least three excluded sergeants and captains on the voter eligibility list and ii) at least two employees who were not eligible to vote because they were not working in the Unit during the eligibility period. Further, PSOA failed to advise the Region at the vote count of these employees' improper inclusion and ineligibility to vote even though PSOA was aware of these improprieties, and PSOA withdrew its challenge to a vote cast by an employee whom PSOA's president identified as an excluded supervisor and sergeant. As a result of this objectionable conduct and acceptance of unlawful assistance, at least five ineligible employees were permitted to cast votes in this election and affect the outcome.

Dated: June 11, 2008

Respectfully Submitted,

By: 
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