

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

LOOMIS ARMORED US, INC.

and

TEAMSTERS LOCAL UNION NO. 439; TEAMSTERS  
LOCAL UNION NO. 315; TEAMSTERS LOCAL  
UNION NO. 853; TEAMSTERS LOCAL UNION NO. 150;  
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND  
HELPERS LOCAL NO. 542; and PACKAGE AND GENERAL  
UTILITY DRIVERS LOCAL NO. 396

32-CA-25316  
32-CA-25708  
32-CA-25709  
32-CA-25727

**COUNSEL FOR THE ACTING GENERAL COUNSEL'S EXCEPTIONS  
TO THE DECISION AND RECOMMENDED ORDER OF THE  
ADMINISTRATIVE LAW JUDGE**

Pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board (hereinafter "the Board"), Counsel for the Acting General Counsel hereby files the following exceptions to certain findings and conclusions of law, to the failure to make certain findings and to draw certain legal conclusions, and to the recommended order of the Administrative Law Judge (hereinafter "the ALJ"), as set forth in his Decision and Order dated January 11, 2012:<sup>1</sup>

1. The statement that Package and General Utility Drivers Local No. 396, International Brotherhood of Teamsters (hereinafter "Local 396") filed an amended charge against Loomis Armored US, Inc. (hereinafter "the Respondent") on March 10, 2011. (ALJD 2:6). Local 396 filed an amended charge against the Respondent on March 8, 2011.

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<sup>1</sup> References to the Decision and Order of the ALJ shall be designated by page and line number, as follows: (ALJD [page]:[line]).

2. The statement that the complaint filed by the Regional Director for Region 32 against the Respondent on March 18, 2011 (hereinafter “the Complaint”) alleges that the Respondent violated Section 8(a)(5) and (1) of the National Labor Relations Act (hereinafter “the Act”) by withdrawing recognition from Local 430 as the collective-bargaining representative of the Respondent’s employees at its Stockton, California facility. (ALJD 2:6-11). The Complaint alleges that the Respondent violated Section 8(a)(5) and (1) of the Act by withdrawing recognition from, and failing and refusing to recognize and bargain with, Teamsters Local Union No. 439, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter “Local 439”) as the exclusive collective-bargaining representative of a specified bargaining unit of the Respondent’s employees located in Stockton, California. The ALJ omits that the Complaint further alleges that the Respondent violated 8(a)(5) and (1) of the Act by withdrawing recognition from, and failing and refusing to recognize and bargain with, Teamsters Local Union No. 315, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter “Local 315”) as the exclusive collective-bargaining representative of a specified bargaining unit of the Respondent’s employees located in Richmond, California, and by withdrawing recognition from, and failing and refusing to recognize and bargain with, Teamsters Local Union No. 853, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter “Local 853”) as the exclusive

collective-bargaining representative of a specified bargaining unit of the Respondent's employees located in Milpitas, California.

3. The statement that the Regional Director for Region 20 issued a complaint against the Respondent on April 7, 2011. (ALJD 2:13-14). The Regional Director for Region 20 issued a complaint against the Respondent on April 27, 2011.
4. The statement that the parties jointly waived a hearing and agreed to have the case decided based on a stipulated record on October 7, 2011. (ALJD 2:19-20). The parties jointly waived a hearing and agreed to have the case decided based on a stipulated record on October 17, 2011.
5. The description of the bargaining unit of the Respondent's employees located in Milpitas, California represented by Local 853 (ALJD 3:22-23). The description of the bargaining unit should be as set forth in the Stipulation of Facts submitted to the ALJ with the Joint Motion to Submit Stipulated Record to the Administrative Law Judge, particularly: "All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen and supervisory employees as defined in the Act."
6. The description of the bargaining unit of the Respondent's employees located in Sacramento, California represented by Teamsters Local 150, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter "Local 150") (ALJD 4:1-4). The description of the bargaining unit should be as set forth in the Stipulation of Facts submitted to the ALJ

with the Joint Motion to Submit Stipulated Record to the Administrative Law Judge, particularly: “All full-time and regular part-time employees employed by Respondent out of its Sacramento facility as custodians, drivers, and guards; excluding all other employees, office and clerical employees, watchmen, and supervisors as defined in the Act.”

7. The omission by the ALJ of key facts regarding the withdrawals of recognition to which the parties, including the Respondent, stipulated in the Stipulation of Facts submitted to the ALJ with the Joint Motion to Submit Stipulated Record to the Administrative Law Judge. (ALJD 3:29-45; 4:10-14; 4:29-33; 4:46-50). The parties, including the Respondent, have stipulated that at the time it withdrew recognition from each labor organization, the Respondent had no evidence that the respective labor organization no longer retained majority support among the employees in the relevant bargaining unit. The parties, including the Respondent, have further stipulated that the Respondent does not contend, with respect to any of the labor organizations from which it withdrew recognition, that a good faith impasse had been reached in bargaining for a successor agreement.
8. The omission by the ALJ of the stipulation reached by the parties, including the Respondent, and included in the Stipulation of Facts submitted to the ALJ with the Joint Motion to Submit Stipulated Record to the Administrative Law Judge, that each labor organization, during its respective period as the designated exclusive collective-bargaining

representative of a specified bargaining unit of the Respondent's employees via the Respondent's voluntary recognition, was the exclusive collective-bargaining representative of the specified bargaining unit based on Section 9(a) of the Act.

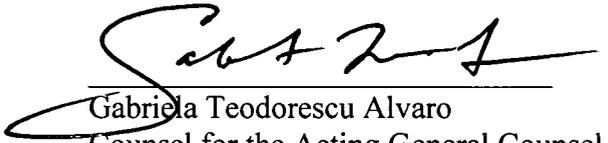
9. The omission by the ALJ of the stipulation reached by Local 315 and the Respondent, included in the Stipulation of Facts submitted to the ALJ with the Joint Motion to Submit Stipulated Record to the Administrative Law Judge, that on or about July 1, 2008 Local 315 became the successor to Teamsters Local Union No. 490, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter "Local 490"), that Local 490 was the designated collective-bargaining representative of a specified unit of the Respondent's employees located in Richmond, CA since on or about 1995 until on or about July 1, 2008, and that Local 490 had entered into successive collective-bargaining agreements with the Respondent, the most recent of which was effective by its terms for the period October 1, 2007 to September 30, 2010.
10. The omission by the ALJ of the stipulation reached by Local 853 and the Respondent, included in the Stipulation of Facts submitted to the ALJ with the Joint Motion to Submit Stipulated Record to the Administrative Law Judge, that on or about February 1, 2008 Local 853 became the successor to Teamsters Local Union No. 78, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter "Local 78"), that Local 78 was the designated collective-bargaining representative of a specified unit of the

Respondent's employees located in Milpitas, CA since on or about 2000 until on or about February 1, 2008, and that Local 78 had entered into successive collective-bargaining agreements with the Respondent, the most recent of which was effective by its terms for the period October 1, 2007 to September 30, 2010.

11. The conclusion that the Board's decision in *Wells Fargo Corp.*, 270 NLRB 787 (1984), should not be reversed. (ALJD 5:37-39).
12. The conclusion that an employer that has voluntarily recognized a labor organization that represents both guards and non-guards as the designated exclusive collective-bargaining representative of a unit of the employer's guards does not violate Section 8(a)(5) of the Act when it withdraws recognition upon expiration of the collective-bargaining agreement because that labor organization is a mixed guard labor organization that is not certifiable by the Board under Section 9(b)(3) of the Act. (ALJD 5:5-10; 5:48-49).
13. The conclusion that the Respondent has not engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) of the Act. (ALJD 5:48-49).

DATED AT Oakland, California this 7<sup>th</sup> day of February, 2012.

Respectfully submitted,



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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 32

LOOMIS ARMORED US, INC.

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TEAMSTERS LOCAL UNION NO. 439; TEAMSTERS  
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NO. 853; TEAMSTERS LOCAL UNION NO. 150;  
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS LOCAL NO. 542; and PACKAGE AND  
GENERAL UTILITY DRIVERS LOCAL NO. 396

Case(s) 32-CA-25316  
32-CA-25708  
32-CA-25709  
32-CA-25727

**AFFIDAVIT OF SERVICE OF COUNSEL FOR THE ACTING GENERAL COUNSEL'S EXCEPTIONS  
TO THE DECISION AND RECOMMENDED ORDER OF THE ADMINISTRATIVE LAW JUDGE**

I, the undersigned employee of the National Labor Relations Board, state under oath that on **February 7, 2012**, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

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February 7, 2012

Date

Frances Hayden, Designated Agent of NLRB

Name



Signature

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TEAMSTERS LOCAL UNION NO. 439; TEAMSTERS  
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**COUNSEL FOR THE ACTING GENERAL COUNSEL'S BRIEF  
IN SUPPORT OF EXCEPTIONS TO THE DECISION AND  
RECOMMENDED ORDER OF THE ADMINISTRATIVE LAW JUDGE**

I. PRELIMINARY STATEMENT

The central issue in these cases is whether an employer that has voluntarily recognized a labor organization that represents both guards and non-guards as the designated exclusive collective-bargaining representative of a unit of the employer's guards, and has entered into one or more collective-bargaining agreements with such labor organization covering such unit, violates §8(a)(5) of the National Labor Relations Act (hereinafter "the Act") when it withdraws recognition from that labor organization upon expiration of the collective-bargaining agreement because that labor organization is a mixed guard labor organization that is not certifiable by the National Labor Relations Board (hereinafter "the Board") under §9(b)(3). As demonstrated below, axiomatic

principles underlying §8(a)(5) as well as the policy at the heart of the Act urge the finding of a violation under such circumstances.

## II. FACTS

All of the cases present the same situation, differing one from the other primarily in dates and the identities of the involved labor organizations. In each case, after voluntarily recognizing a labor organization, and entering into successive collective-bargaining agreements with said labor organization, Respondent withdrew recognition upon expiration of the most recent collective-bargaining agreement. The Respondent had recognized the labor organizations as representatives of units comprised only of Respondent's guards, although all of the labor organizations included in their respective memberships both guards and non-guards.

The facts for each case remain as set forth in the Stipulation of Facts, attached hereto as Exhibit A, filed on October 18, 2011 with the Joint Motion to Submit Stipulated Record to the Administrative Law Judge. Counsel for the Acting General Counsel respectfully requests that the Board reach its determination based on the facts as set forth in the Stipulation of Facts, which facts have been agreed upon by all of the involved parties, including Respondent. For ease of reference, facts relevant to each case are also summarized below.

### A. Case 32-CA-25316

#### 1. Local 439

Since on or about 1990 until on or about July 27, 2010, Respondent voluntarily recognized Teamsters Local Union No. 439, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter "Local 439") as the designated exclusive

collective-bargaining representative of a unit of Respondent's guards employed at Respondent's Stockton, CA branch (hereinafter "the Stockton Unit"), and at all times therein Local 439 was the exclusive collective-bargaining representative of the Stockton Unit based on §9(a) of the Act. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms for the period April 1, 2009 to March 31, 2010.

On or about July 27, 2010, Respondent withdrew recognition of Local 439 as the exclusive collective-bargaining representative of the employees in the Stockton unit, and since that date Respondent has refused, and continues to refuse, to recognize or bargain with Local 439 as the collective-bargaining representative of the employees in the Stockton Unit.

Respondent withdrew recognition of Local 439 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 439 no longer retained majority support among the Stockton Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement. Furthermore, the Stipulation of Facts does not contain any evidence to support a finding that any actual conflict of interest had developed whereby Respondent could no longer rely upon the faithful performance of its guard employees' duties.

## 2. Local 490 / Local 315

Since on or about 1995 until on or about July 1, 2008, Respondent voluntarily recognized Teamsters Local Union No. 490, International Brotherhood of Teamsters,

Change to Win Coalition (hereinafter “Local 490”) as the designated exclusive collective-bargaining representative of a unit of Respondent’s guards employed at Respondent’s Richmond branch (hereinafter “the Richmond Unit”), and at all times therein Local 490 was the exclusive collective-bargaining representative of the Richmond Unit based on §9(a) of the Act. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms for the period October 1, 2007 to September 30, 2010.

On or about July 1, 2008, Local 490 merged with Teamsters Local Union No. 315, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter “Local 315”) and, thereafter, Local 490 ceased to exist. Since on or about July 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 490 and the post-merger Local 315, and, therefore, Local 315 is the successor to Local 490.

Beginning on or about July 1, 2008 until on or about September 30, 2010, Respondent voluntarily recognized Local 315 as the designated exclusive collective-bargaining representative of the Richmond Unit, and at all times therein Local 315 was the exclusive collective-bargaining representative of the Richmond Unit based on § 9(a) of the Act. Such recognition was embodied in a collective-bargaining agreement which was effective by its terms for the period October 1, 2007 to September 30, 2010.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 490, and thereby of Local 315, the successor to Local 490, as the exclusive collective-bargaining representative of the employees in the Richmond Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to

recognize or bargain with Local 315 as the collective-bargaining representative of the employees in the Richmond Unit.

Respondent withdrew recognition of Local 315 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 315 no longer retained majority support among the employees in the Richmond Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement. Furthermore, the Stipulation of Facts does not contain any evidence to support a finding that any actual conflict of interest had developed whereby Respondent could no longer rely upon the faithful performance of its guard employees' duties.

### 3. Local 78 / Local 853

Since on or about 2000 until on or about February 1, 2008, Respondent voluntarily recognized Teamsters Local Union No. 78, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter "Local 78") as the designated exclusive collective-bargaining representative of a unit of Respondent's guards employed at Respondent's Milpitas branch (hereinafter "the Milpitas Unit"), and at all times therein Local 78 was the exclusive collective-bargaining representative of the Milpitas Unit based on §9(a) of the Act. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms for the period October 1, 2007 to September 30, 2010.

On or about February 1, 2008, Local 78 merged with Teamsters Local Union No. 853, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter

“Local 853”) and, thereafter, Local 78 ceased to exist. Since on or about February 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 78 and the post-merger Local 853, and, therefore, Local 853 is the successor to Local 78.

Beginning on or about February 1, 2008 until on or about September 30, 2010, Respondent voluntarily recognized Local 853 as the designated exclusive collective-bargaining representative of the Milpitas Unit, and at all times therein Local 853 was the exclusive collective-bargaining representative of the Milpitas Unit based on §9(a) of the Act. Such recognition was embodied in a collective-bargaining agreement which was effective by its terms for the period October 1, 2007 to September 30, 2010.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 853 as the exclusive collective-bargaining representative of the employees in the Milpitas Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 853 as the collective-bargaining representative of the employees in the Milpitas Unit.

Respondent withdrew recognition of Local 853 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 853 no longer retained majority support among the employees in the Milpitas Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement. Furthermore, the Stipulation of Facts does not contain any evidence to

support a finding that any actual conflict of interest had developed whereby Respondent could no longer rely upon the faithful performance of its guard employees' duties.

B. Case 32-CA-25708

Since at least 1965 until on or about November 30, 2010, Respondent voluntarily recognized Teamsters Local Union No. 150, International Brotherhood of Teamsters, Change to Win Coalition (hereinafter "Local 150") as the designated exclusive collective-bargaining representative of a unit of Respondent's guards employed at Respondent's Sacramento branch (hereinafter "the Sacramento Unit"), and at all times therein Local 150 was the exclusive collective-bargaining representative of the Sacramento Unit based on §9(a) of the Act. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms for the period December 1, 2006 to November 30, 2010.

On or about September 27, 2010, Respondent withdrew recognition, effective November 30, 2010, of Local 150 as the exclusive collective-bargaining representative of the employees in the Sacramento Unit, and since November 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 150 as the collective-bargaining representative of the employees in the Sacramento Unit.

Respondent withdrew recognition of Local 150 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 150 no longer retained majority support among the employees in the Sacramento Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor

agreement. Furthermore, the Stipulation of Facts does not contain any evidence to support a finding that any actual conflict of interest had developed whereby Respondent could no longer rely upon the faithful performance of its guard employees' duties.

C. Case 32-CA-25709

Since at least 1963 until on or about February 28, 2011, Respondent voluntarily recognized Teamsters, Chauffeurs, Warehousemen and Helpers, Local 542, International Brotherhood of Teamsters (hereinafter "Local 542") as the designated exclusive collective-bargaining representative of a unit of Respondent's guards employed at Respondent's San Diego branch (hereinafter "the San Diego Unit"), and at all times therein Local 542 was the exclusive collective-bargaining representative of the San Diego Unit based on §9(a) of the Act. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms for the period March 1, 2010 to February 28, 2011.

On or about December 20, 2010, Respondent withdrew recognition, effective February 28, 2011, of Local 542 as the exclusive collective-bargaining representative of the employees in the San Diego Unit, and since February 28, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 542 as the collective-bargaining representative of the employees in the San Diego Unit.

Respondent withdrew recognition of Local 542 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 542 no longer retained majority support among the employees in the San Diego Unit. Respondent does

not contend that a good faith impasse had been reached in bargaining for a successor agreement. Furthermore, the Stipulation of Facts does not contain any evidence to support a finding that any actual conflict of interest had developed whereby Respondent could no longer rely upon the faithful performance of its guard employees' duties.

D. Case-32-CA-25727

Since at least 1981 until on or about January 31, 2011, Respondent voluntarily recognized Package and General Utility Drivers, Local 396, International Brotherhood of Teamsters (hereinafter "Local 396") as the designated exclusive collective-bargaining representative of a unit of Respondent's guards employed at Respondent's Los Angeles branch (hereinafter "the Los Angeles Unit"), and at all times therein Local 396 was the exclusive collective-bargaining representative of the Los Angeles Unit based on §9(a) of the Act. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms for the period February 1, 2010 to January 31, 2011.

On or about November 23, 2010, Respondent withdrew recognition, effective January 31, 2011, of Local 396 as the exclusive collective-bargaining representative of the employees in the Los Angeles Unit, and since January 31, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 396 as the collective-bargaining representative of the employees in the Los Angeles Unit.

Respondent withdrew recognition of Local 396 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 396 no longer

retained majority support among the employees in the Los Angeles Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement. Furthermore, the Stipulation of Facts does not contain any evidence to support a finding that any actual conflict of interest had developed whereby Respondent could no longer rely upon the faithful performance of its guard employees' duties.

### III. ARGUMENT

The bargaining relationships between Respondent and the labor organizations involved in the present cases, all established via Respondent's voluntary recognition, have lasted an average of 28 years, with several of them spanning well over four decades. Despite such long-standing labor relations, Respondent withdrew its recognition, and consequently turned its back on the representatives selected by a majority of its relevant employees, based on the assertion that it was qualified to do so upon the expiration of the collective-bargaining agreements simply because the labor organizations are not certifiable under §9(b)(3) of the Act. Significantly, the Respondent does not contend that the withdrawals of recognition were justified based upon evidence that the labor organizations had lost majority status, that the parties had reached a good faith impasse in bargaining for a successor agreement, or that any actual conflict of interest had developed whereby it could no longer rely upon the faithful performance of its guard employees' duties.

Respondent's assertion is based on *Wells Fargo Corp.*, 270 NLRB 787 (1984), *enfd. sub nom. Truck Drivers Local Union No. 807 v. NLRB*, 755 F.2d 5 (2d Cir. 1985). However, as discussed in detail below, Board Members and the courts have long

criticized the holding in *Wells Fargo* as being contrary to the plain text as well as the policy of the Act.<sup>1</sup>

#### A. Analysis of Relevant Board Law

In *Wells Fargo*, the Board held that the employer was privileged to withdraw its voluntary recognition of a labor organization which admitted to its membership both guards and non-guards several months after the expiration of the parties' collective-bargaining agreement at a time when the parties had failed to reach agreement on a new contract in the midst of a strike held by guard employees.<sup>2</sup> *Wells Fargo* at 790. The *Wells Fargo* majority reasoned that its decision accorded with its interpretation of Congressional intent underlying §9(b)(3), that of protecting employers from potential conflicts of loyalties presented by units and unions comprised of guards and non-guards. *Id.* at 789. It stated that a contrary holding would “give the [labor organization] indirectly -- by a bargaining order -- what it could not obtain directly -- by certification -- i.e., it compels the [employer] to bargain with the [labor organization].” *Id.* at 787.

However, *Wells Fargo* was only a 2 to 1 decision. In a strong dissent, Board Member Zimmerman drew a clear demarcation between the issue of initial creation of a bargaining relationship via Board certification and the issue of maintenance of a bargaining relationship already established via voluntary recognition. *Id.* at 791-93. Zimmerman forcefully argued that §9(b)(3)'s provision regarding Board certification in

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<sup>1</sup> Recently, the Board held in diametric opposition to such an assertion in analogous circumstances, albeit without expressly overturning *Wells Fargo*. See *Temple Security*, 337 NLRB 372 (2001) (hereinafter *Temple Security 2*), more fully discussed below.

<sup>2</sup> Notably, in the present cases nothing more than the expiration of the collective-bargaining agreements triggered withdrawal and, unlike the parties in *Wells Fargo*, the parties in the present cases had not attempted and failed to reach an agreement on a new contract in the midst of a strike. Nevertheless, in *Temple Security*, 328 NLRB 663 (1999), enf. denied sub nom. *General Service Employees Union Local 73 v. NLRB*, 230 F.3d 909 (7th Cir. 2000) (hereinafter “*Temple Security 1*”) the Board without question extended the holding of *Wells Fargo* when it allowed withdrawal of recognition merely upon the expiration of the collective-bargaining agreement.

no way affects the “long-established rights flowing from voluntary recognition.” *Id.* at 791. Those rights include a rebuttable presumption of majority support upon expiration of the collective-bargaining agreement. *Id.* at 793; see also *Temple Security 1* at 665, citing *Auciello Iron Works, Inc. v. NLRB*, 517 US 781 (1996). As a consequence of that rebuttable presumption, it is a violation of §8(a)(5) for an employer to withdraw its voluntary recognition from a labor organization simply because the collective-bargaining agreement has expired. *Wells Fargo* at 793; see also *Temple Security 1* at 665.

In short, Board Member Zimmerman clarified that the question presented by *Wells Fargo*, as it is in the present cases, is not whether a labor organization that admits both guards and non-guards into its membership is certifiable by the Board, but rather whether the employer could lawfully withdraw its voluntary recognition from such a labor organization. *Wells Fargo* at 793. Upon analyzing both the plain text of §9(b)(3) as well as its legislative history, Zimmerman concluded that a labor organization that is voluntarily recognized by an employer should be treated as such, and should enjoy the rights attendant to such a position, even if its creation as a bargaining representative could not have come about had it had to depend upon Board certification. *Id.* at 791-93. Any other construction, such as that put forth by the *Wells Fargo* majority, “envisions a form of collective bargaining that is foreign to the statute as a whole” insofar as it, by allowing an employer to walk away from an established bargaining relationship, contradicts the Act’s purpose of securing the stability of collective-bargaining relationships. *Id.* at 793.

Upon presentation of the *Wells Fargo* matter to the Second Circuit Court of Appeals, the court approved the Board’s refusal to require the employer to bargain with

an “uncertifiable” labor organization after the term of the collective-bargaining agreement and dismissed the labor organization’s review petition. *Truck Drivers Local Union No. 807 v. NLRB*, 755 F.2d 5, 10-11 & n.1 (2d. Cir. 1985). However, Judge Mansfield dissented, proclaiming that “[o]nce an employer recognizes a non-certified union, that union is entitled to seek and obtain from the Board the same remedies as those available to a certified union,” thereby distinguishing between the initial creation of a bargaining relationship and the maintenance of such a relationship once it has been established. *Truck Drivers Local* at 13. Judge Mansfield echoed Member Zimmerman in his consideration of the axiomatic proscriptions on an employer’s ability to repudiate a bargaining relationship at the end of a collective-bargaining agreement when the labor organization continues to represent a majority, and substantiated his argument against the holding in *Wells Fargo* with a consideration of the plain language of §9(b)(3) as well as the Act’s purpose. *Id.* at 11-15.

When the issue was revisited by the Board in *Temple Security 1*, the *Wells Fargo* decision was reaffirmed by a slight majority. Dissenting Members Fox and Liebman fully echoed the arguments of previous dissenters and pointedly noted that the majority was “elevating the narrow purpose of Section 9(b)(3) over the overall purpose of the Act [which is] to encourage stable labor relationships.” *Temple Security 1* at 666. In a similar vein, they clarified that §9(b)(3) in no way eviscerates the rights afforded guards who are considered employees under the Act. *Id.* at 665-66. Accordingly, they circumscribed §9(b)(3) to its intended place as only a prohibition on Board certification of a labor organization that accepts both guards and non-guards into membership, and

repeated the principles that “estopped” the employer from repudiating the relationship into which it voluntarily had entered. *Id.*

Upon review of *Temple Security 1*, the Seventh Circuit Court of Appeals distilled the matter into one question: Does the Board have the power to interpret the Act in such a way as to hold that the §9(b)(3) prohibition against certification also means that labor organizations that admit to membership both guards and non-guards are unprotected under other provisions of the Act? *General Service Employees Union Local 73 v. NLRB*, 230 F.3d 909, 912 (7th Cir. 2000). Applying the appropriate deferential standard, the court held that the Board “pushed further than the Act permits” when it used §9(b)(3) to remove such unions from the protection afforded by §8(a)(5) of the Act. *Id.*

Although the court recognized the same policy arguments used by *Wells Fargo* dissenters, such as the promotion of stable labor relations, it stated that such considerations were “beside the point” as the plain text of the Act was sufficient to discredit the interpretation first set forth in *Wells Fargo*. *Id.* at 914. Simply put, a prohibition on certification means nothing more than a prohibition on certification. *Id.* The court explained that both certification as well as voluntary recognition were methods of becoming a representative, and purposefully noted the privileges accorded to certified representatives, but not available to voluntarily-recognized representatives, by reviewing §9’s clearly described certification process. *Id.* at 914-15. A prohibition on certification also means an exclusion of the benefits attendant to certification, such as the benefit of a one-year non-rebuttable presumption of majority status under §9(c)(3). *Id.* at 915. However, a prohibition on certification cannot mean that non-certified representatives are also stripped of protections under provisions of the Act having nothing to do with

certification, such as the requirement that the status quo be maintained under §8(a)(5) after the expiration of a collective-bargaining agreement until a new agreement is reached or until the parties bargain in good faith to impasse (under the rebuttable presumption of majority support upon expiration of the collective-bargaining agreement). *Id.* at 915.

In other words, a prohibition on certification is significant insofar as it also prohibits the benefits that such certification affords, but such prohibition cannot claim to proscribe all benefits or protections afforded by the Act to representatives designated or selected by the majority of employees. *Id.* at 915-16. Such representatives, including voluntarily-recognized non-certified labor organizations, are entitled to the basic protections of the Act, including that afforded by §8(a)(5). *Id.* at 915, citing, *inter alia*, *NLRB v. White Superior Division, White Motor Corp.*, 404 F.2d 1100, 1103 n.5 (6th Cir. 1968) (certification gives an organization which achieves it additional rights, not all its rights). In short, §9 limits the Board's certification powers but does not condition §7 rights or §8 protections on certification. *Id.* at 916. The court noted that other circuits "have accepted the Act's balancing of section 9(b) interests with the general policies of the Act, refusing to create exceptions to section 8(a)(5) based on concerns dealt with elsewhere in the Act." *Id.* See, e.g., *Int'l Tel. & Tel. Corp. v. NLRB*, 382 F.2d 366, 369-71 (3d Cir. 1967) (finding that a mixed unit of professional and non-professional employees, though frowned upon within §9 of the Act, was still protected by §8(a)(5)'s bargaining requirement). As such, the court refused to create an exception to the application of §8(a)(5) based on §9(b)(3), set aside the decision in *Temple Security 1*, and remanded the matter to the Board. *General Service Employees* at 916.

Consequently, in *Temple Security 2*, after reviewing and accepting the Seventh Circuit Court’s analysis and conclusions as the law of the case, including the determination that “Congress never intended to take mixed guard unions outside the protections of the Act altogether,” a three-member Board unanimously held that the employer was not privileged to withdraw recognition upon the expiration of the collective-bargaining agreement and, accordingly, found that the employer had violated §8(a)(5). *Temple Security 2* at 372-73. In so holding, the Board did not distinguish *Wells Fargo* in any way although it reached a decision transparently and unequivocally in direct opposition to *Wells Fargo*. Board Members Liebman and Walsh justified this by explaining that only the lack of a third vote prevented them from expressly overruling *Wells Fargo* and *Temple Security 1*, and noted simply that *Wells Fargo* was not overruled due to “institutional reasons.”<sup>3</sup> *Temple Security 2* at 374 n.7.

#### B. Analysis of §9(b)(3) under *Chevron, USA*

In *Chevron, USA, Inc. v. Natural Resources Defense Council, Inc.*, 467 US 837 (1984), the Court set forth its two-step approach to reviewing agency action and determining whether deference should be given to an agency’s interpretation. In what is referred to as *Chevron I*, the Court stated: “First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.” *Chevron, USA* at 842-43. Under this approach, a court, using the traditional tools of statutory construction, determines whether

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<sup>3</sup> Withdrawal of recognition upon expiration of a collective-bargaining agreement was also at issue in a subsequent case, *Northwest Protective Services, Inc.*, 342 NLRB 1201 (2004). The case, however, dealt with a labor organization that was not only non-certifiable under §9(b)(3) but that, unlike all of the labor organizations in the present cases, was also never voluntarily recognized by the employer. Therefore, its holding is readily distinguishable.

Congress has addressed the issue under consideration. If Congress' intention is clear, then this intention must be given effect by the Board and the court.

In contrast, in what is referred to as *Chevron II*, the Court stated "if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute." *Id.* at 843. The court must defer to the agency's construction of the statute, even if that construction is not "the only one [the Board] permissibly could have adopted" and not the one that "the court would have reached if the question initially had arisen in a judicial proceeding." *Id.* at 843 n.11. The Court explained that by leaving a statute delegating authority to an agency ambiguous, Congress intends for the agency to resolve ambiguity in light of its expertise in the area. *Id.* at 843-45.

In remanding *Temple Security 1* to the Board, the Seventh Circuit held that §9(b)(3) was plain on its face and not ambiguous and, therefore, should be analyzed under the *Chevron I* standard. See *General Service Employees* at 913-14. In the Seventh Circuit's view, *Chevron II* deference was not applicable because the court did not need to look beyond the language of §9(b)(3) to understand the scope of its limitations. *Id.* The Seventh Circuit reasoned that since there was no express language requiring the Board to withhold the protections of §8 from labor organizations that accepted into membership both guards and non-guards, as well as no prohibition against voluntary recognition of such labor organizations, Congress never intended to take these labor organizations outside the protections of the Act. *Id.* at 913-16. Thus, such representatives are entitled to the rights of any voluntarily-recognized representative selected by a majority of the employees in an appropriate unit. *Id.*

The Second Circuit, in upholding *Wells Fargo*, took a different approach than the Seventh Circuit to the statutory construction issue.<sup>4</sup> Although not citing *Chevron*, the Second Circuit recognized that the Board's *Wells Fargo* decision should be set aside if it is “‘fundamentally inconsistent with the structure of the Act’ and an attempt to usurp ‘major policy decisions properly made by Congress.’” *Truck Drivers* at 7 (quoting *Ford Motor Co. v. NLRB*, 441 US 488, 497 (1979)). The Second Circuit did not find that the *Wells Fargo* majority crossed that line. *Id.* at 10. Acknowledging the Board's expertise and a reviewing court's obligation to uphold the Board's construction if it is “‘reasonably defensible,” the Second Circuit concluded that “‘based on the language and legislative history of Section 9(b)(3), the Board was warranted in interpreting the section as proscribing Board direction to an employer to bargain with a mixed guard union despite prior voluntary recognition of that union by the employer.” *Id.* at 7 & 10. The court reasoned, “‘There is sufficient support for the Board's conclusion that in enacting the statute, Congress knowingly decreased the stability of bargaining relationships in order to further its objective of protecting employers from the potential for divided loyalty.” *Id.* at 10.

However, assuming *arguendo* that the Second Circuit was correct in finding that the *Wells Fargo* majority's construction was “‘reasonably defensible” and “‘should not be rejected merely because a court might prefer another construction,” *id.* at 7, the Board itself is free to prefer a different construction if in its judgment it is reasonable to do so. See *NLRB v. J. Weingarten, Inc.*, 420 US 251, 266 (1975); *John Deklewa and Sons, Inc.*, 282 NLRB 1375, 1385 (1987), *enfd.* sub nom. *Int'l Ass'n of Iron Workers Local 3 v.*

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<sup>4</sup> The Seventh Circuit noted that the Second Circuit's deference to the Board's interpretation of the statute when it upheld *Wells Fargo* was given before the Supreme Court “‘elaborated upon the *Chevron* test.” *Id.* at 914.

*NLRB*, 843 F.2d 770 (3d Cir. 1988). In this regard, the Board is entitled to give weight to its experience in administering *Wells Fargo*. Although the Second Circuit upheld *Wells Fargo* largely on the ground that it advanced Congress' policy objective of "protecting employers from the potential for divided loyalty," *Truck Drivers* at 10, it is striking that neither in *Wells Fargo* nor in *Temple Security* nor in any of the present cases was the unilateral disruption of a long-standing bargaining relationship justified on the ground that the employer had concerns that the guards would not loyally carry out their duties during periods of industrial unrest. Rather, in each case, the employer broke off the relationship simply because it could. Such experience provides substance to Judge Mansfield's complaint, voiced in the dissent to *Truck Drivers*, that the Act's policies of employee free choice and stability in the bargaining relationship are ill-served by the *Wells Fargo* holding which authorizes an employer to "unilaterally sever the relationship at will whenever it sees no advantage to [its] continuation," *id.* at 15, and should inform the current Board's approach to the matter.

### C. Analysis of Relevant Provisions of the Act

A reading of the relevant portion of §9(b)(3) provides only that the Board cannot certify a labor organization as a representative of a unit of guards if such labor organization also admits to its membership non-guards. However, §9(b)(3) does not prohibit such a labor organization from representing a unit of guards. In fact, such representation is possible when, as in the present cases, the employer voluntarily recognizes the labor organization. §9(b)(3) narrowly addresses one method, Board certification, by which to establish a collective-bargaining relationship. It does not address alternative methods of establishing such a relationship, nor does it touch upon the

maintenance of such a relationship once it has been established. Furthermore, §9(b)(3) is silent with respect to the protections a labor organization which admits to membership both guards and non-guards is afforded under various provisions of the Act, including §8(a)(5).

The allegations of violations of §8(a)(5) present in these cases should not be held hostage to §9(b)(3)'s Board certification rule that is reasonably relevant and applicable only to representation cases. Nothing in the text of §8(a)(5) subjects the unfair labor practice consisting of an employer's refusal to bargain collectively with representatives of its employees to the provisions of §9(b)(3). In fact, §8(a)(5) is expressly subject only to §9(a), within which parameters the labor organizations fall per Respondent's stipulations.<sup>5</sup> If Congress had intended to subject §8(a)(5) to §9(b)(3), it would have done so as expressly as it subjected it to §9(a).<sup>6</sup>

#### IV. CONCLUSION

The history of the mixed guard union issue indicates that several Board members and most recently the Seventh Circuit have disagreed with the *Wells Fargo* rationale, finding a meaningful difference between the concerns created by initial certification of a mixed guard union and those created by compulsory maintenance of a bargaining relationship. They have determined that once an employer recognizes a mixed guard union, §8(a)(5) requires that the employer treat the mixed guard union in the same way that it does certified unions.

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<sup>5</sup> In discussing §9(a) in the context of its applicability to §8(a)(5), the US Supreme Court noted that §9(a) "does not make it a condition that the representative ... shall be certified by the Board, or even be eligible for such certification." *United Mine Workers v. Arkansas Oak Flooring Co.*, 351 US 62, 71-2 (1956).

<sup>6</sup> *Expressio unius est exclusio alterius.*

In view of the cogent arguments against the holding in *Wells Fargo*, Counsel for the Acting General Counsel urges the Board to find that the policies of the Act are better served by its overruling. As §9(b)(3) is silent with regard to voluntary creation, establishment or maintenance of bargaining relationships between employers and mixed guard unions, the Board has a reasonable basis for concluding that §9(b)(3), by its terms, is a rule for representation cases only and does not speak at all to the unfair labor practice issue that is presented when an employer with no obligation to voluntarily recognize a union nevertheless does so. It is therefore open to the Board to conclude that the voluntary relationship resulting from an employer's recognition of a mixed guard union should be treated no differently than any other collective-bargaining relationship created by voluntary recognition. Since a voluntarily-recognized union enjoys a rebuttable presumption of continuing majority status following expiration of the collective-bargaining agreement, and there is no evidence in the present cases that the unions no longer retained majority status, it was a violation of §8(a)(5) and (1) for the Respondent to have withdrawn recognition from each of the respective unions simply because the contracts had expired.

For the reasons set forth herein, it is respectfully requested that the Board find merit to the Counsel for the Acting General Counsel's Exceptions, that it expressly overrule its previous decision in *Wells Fargo*, that it accordingly find that Respondent violated §8(a)(5) and (1) when it severed its long-established bargaining relationships with the labor organizations involved in the present cases relying on nothing more than the expiration of the respective collective-bargaining agreements, and that it issue the

appropriate conclusions of law and order as will properly remedy Respondent's unfair labor practices.

DATED AT Oakland, California this 7<sup>th</sup> day of February, 2012.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gabriela Teodorescu Alvaro', written over a horizontal line.

Gabriela Teodorescu Alvaro  
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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

LOOMIS ARMORED US, INC.

and

Case 32-CA-25316

TEAMSTERS LOCAL UNION NO. 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION;  
TEAMSTERS LOCAL UNION NO. 315,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION;  
and TEAMSTERS LOCAL UNION NO. 853,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION

LOOMIS ARMORED US, INC.

and

Case 32-CA-25708

TEAMSTERS LOCAL 150, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
CHANGE TO WIN COALITION

LOOMIS ARMORED US, INC.

and

Case 32-CA-25709

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS, LOCAL NO. 542, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

LOOMIS ARMORED US, INC.

and

Case-32-CA-25727

PACKAGE AND GENERAL UTILITY  
DRIVERS, LOCAL 396, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

**GC Exhibit # A**

## STIPULATION OF FACTS

It is hereby stipulated and agreed by and among Loomis Armored US, Inc., herein called Respondent, Teamsters Local Union No. 439, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 439, Teamsters Local Union No. 315, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 315, Teamsters Local Union No. 853, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 853, Teamsters Local 150, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 150, Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 542, International Brotherhood of Teamsters, herein called Local 542, Package and General Utility Drivers, Local 396, International Brotherhood of Teamsters, herein called Local 396, and Counsel for the General Counsel as follows:

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1.

On August 16, 2010, Local 439, Local 315, and Local 853 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date. Local 439, Local 315, and Local 853 filed a first-amended charge on March 7, 2011, and a copy thereof was served on Respondent by mail on or about March 8, 2011.

2.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with branch offices and places of business in Stockton, Richmond, and Milpitas, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

3.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4.

At all times material herein, Local 439, Local 315, and Local 853, and their respective immediate predecessors, have each been a labor organization within the meaning of Section 2(5) of the Act.

5.

At all times material herein, Local 439, Local 315, and Local 853 have each been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

6.

(a) Beginning on or about 1990, Local 439 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Stockton, California branch, herein called the Stockton Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, vault employees, mechanics, turret guards, and supervisory employees as defined in the Act.

(b) Since on or about 1990 until on or about July 27, 2010, Local 439 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Stockton Agreement, was effective by its terms for the period April 1, 2009 to March 31, 2010.

(c) The employees in the Stockton Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least on or about 1990, until on or about July 27, 2010, based on Section 9(a) of the Act, Local 439 was the exclusive collective-bargaining representative of the Stockton Unit.

7.

(a) Beginning on or about 1995, Teamsters Local Union No. 490, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 490, was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Richmond, California branch, herein called the Richmond Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen, and supervisory employees as defined in the Act.

(b) Since on or about 1995 until on or about July 1, 2008, Local 490 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Richmond Agreement, was effective by its terms for the period October 1, 2007 to September 30, 2010.

(c) On or about July 1, 2008, Local 490 merged with Local 315 and, thereafter, Local 490 ceased to exist. Since on or about July 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 490 and the post-merger Local 315, and, therefore, Local 315 is the successor to Local 490.

(d) Beginning on or about July 1, 2008, Local 315 was the designated exclusive collective-bargaining representative of the employees in the Richmond Unit, and since that date until on or about September 30, 2010, Local 315 was voluntarily recognized as such representative by Respondent. Such recognition was embodied in the Richmond Agreement.

(e) The employees in the Richmond Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(f) At all times from at least on or about 1995, until on or about July 1, 2008, based on Section 9(a) of the Act, Local 490 was the exclusive collective-bargaining representative of the Richmond Unit.

(g) At all times from at least on or about July 1, 2008, until September 30, 2010, based on Section 9(a) of the Act, Local 315 was the exclusive collective-bargaining representative of the Richmond Unit.

8.

(a) Beginning on or about 2000, Teamsters Local Union No. 78, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 78, was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Milpitas, California branch, herein called the Milpitas Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen and supervisory employees as defined in the Act.

(b) Since on or about 2000 until on or about February 1, 2008, Local 78 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Milpitas Agreement, was effective by its terms for the period October 1, 2007 to September 30, 2010.

(c) On or about February 1, 2008, Local 78 merged with Local 853 and, thereafter, Local 78 ceased to exist. Since on or about February 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 78 and the post-merger Local 853, and, therefore, Local 853 is the successor to Local 78.

(d) Beginning on or about February 1, 2008, Local 853 was the designated exclusive collective-bargaining representative of the employees in the Milpitas Unit, and

since that date until on or about September 30, 2010, Local 853 was voluntarily recognized as such representative by Respondent. Such recognition was embodied in the Milpitas Agreement.

(e) The employees in the Milpitas Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(f) At all times from at least on or about 2000, until on or about February 1, 2008, based on Section 9(a) of the Act, Local 78 was the exclusive collective-bargaining representative of the Milpitas Unit.

(g) At all times from at least on or about February 1, 2008, until on or about September 30, 2010, based on Section 9(a) of the Act, Local 853 was the exclusive collective-bargaining representative of the Milpitas Unit.

9.

On or about July 27, 2010, Respondent withdrew recognition of Local 439 as the exclusive collective-bargaining representative of the employees in the Stockton Unit, and since that date Respondent has refused, and continues to refuse, to recognize or bargain with Local 439 as the collective-bargaining representative of the employees in the Stockton Unit.

Respondent withdrew recognition of Local 439 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 439 no longer retained majority support among the employees in the Stockton Unit. Respondent does

not contend that a good faith impasse had been reached in bargaining for a successor agreement.

10.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 490, and thereby of Local 315, the successor to Local 490, as the exclusive collective-bargaining representative of the employees in the Richmond Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 315 as the collective-bargaining representative of the employees in the Richmond Unit.

Respondent withdrew recognition of Local 315 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 315 no longer retained majority support among the employees in the Richmond Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

11.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 853 as the exclusive collective-bargaining representative of the employees in the Milpitas Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 853 as the collective-bargaining representative of the employees in the Milpitas Unit.

Respondent withdrew recognition of Local 853 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 853 no longer retained majority support among the employees in the Milpitas Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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12.

On February 23, 2011, Local 150 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date.

13.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in Sacramento, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or

provided services valued in excess of \$50,000 directly to customers located outside the State of California.

14.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

15.

At all times material herein, Local 150 has been a labor organization within the meaning of Section 2(5) of the Act.

16.

At all times material herein, Local 150 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

17.

(a) Beginning on or about 1965, Local 150 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Sacramento, California branch, herein called the Sacramento Unit:

All full-time and regular part-time employees employed by Respondent out of its Sacramento facility as custodians, drivers, and guards; excluding all other employees, office and clerical employees, watchmen, and supervisors as defined in the Act.

(b) Since at least 1965, until on or about November 30, 2010, Local 150 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining

agreements, the most recent of which, herein called the Sacramento Agreement, was effective by its terms for the period December 1, 2006 to November 30, 2010.

(c) The employees in the Sacramento Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1965, until on or about November 30, 2010, based on Section 9(a) of the Act, Local 150 was the exclusive collective-bargaining representative of the Sacramento Unit.

18.

On or about September 27, 2010, Respondent withdrew recognition, effective November 30, 2010, of Local 150 as the exclusive collective-bargaining representative of the employees in the Sacramento Unit, and since November 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 150 as the collective-bargaining representative of the employees in the Sacramento Unit.

Respondent withdrew recognition of Local 150 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 150 no longer retained majority support among the employees in the Sacramento Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

19.

On January 20, 2011, Local 542 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date. Local 542 filed a first-amended charge on March 8, 2011, and a copy thereof was served on Respondent by mail on or about March 9, 2011.

20.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in San Diego, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

21.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

22.

At all times material herein, Local 542 has been a labor organization within the meaning of Section 2(5) of the Act.

23.

At all times material herein, Local 542 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

24.

(a) Beginning on or about 1963, Local 542 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its San Diego, California branch, herein called the San Diego Unit:

All full-time and regular part-time employees employed by Respondent out of its San Diego branch as custodians, drivers, and guards; excluding all other employees, vault employees, turret employees, office clerical employees, professional employees and supervisors as defined in the Act.

(b) Since at least 1963, until on or about February 28, 2011, Local 542 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the San Diego Agreement, was effective by its terms for the period March 1, 2010 to February 28, 2011.

(c) The employees in the San Diego Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1963, until on or about February 28, 2011, based on Section 9(a) of the Act, Local 542 was the exclusive collective-bargaining representative of the San Diego Unit.

25.

On or about December 20, 2010, Respondent withdrew recognition, effective February 28, 2011, of Local 542 as the exclusive collective-bargaining representative of the employees in the San Diego Unit, and since February 28, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 542 as the collective-bargaining representative of the employees in the San Diego Unit.

Respondent withdrew recognition of Local 542 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 542 no longer retained majority support among the employees in the San Diego Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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26.

On January 20, 2011, Local 396 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or

about January 25, 2011. Local 396 filed a first-amended charge on March 8, 2011, and a copy thereof was served on Respondent by mail on or about March 9, 2011.

27.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in Los Angeles, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

28.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

29.

At all times material herein, Local 396 has been a labor organization within the meaning of Section 2(5) of the Act.

30.

At all times material herein, Local 396 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

31.

(a) Beginning on or about 1981, Local 396 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Los Angeles, California branch, herein called the Los Angeles Unit:

All regular full-time and part-time custodians, drivers, guards, and vault employees working out of the Respondent's City of Los Angeles, California (Pico) branch.

(b) Since at least 1981, until on or about January 31, 2011, Local 396 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Los Angeles Agreement, was effective by its terms for the period February 1, 2010 to January 31, 2011.

(c) The employees in the Los Angeles Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1981, until on or about January 31, 2011, based on Section 9(a) of the Act, Local 396 was the exclusive collective-bargaining representative of the Los Angeles Unit.

32.

On or about November 23, 2010, Respondent withdrew recognition, effective January 31, 2011, of Local 396 as the exclusive collective-bargaining representative of the employees in the Los Angeles Unit, and since January 31, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 396 as the collective-bargaining representative of the employees in the Los Angeles Unit.

Respondent withdrew recognition of Local 396 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 396 no longer retained majority support among the employees in the Los Angeles Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

#### STATEMENT OF THE ISSUE PRESENTED

1.

The legal issue presented by this case is whether an employer that has voluntarily recognized a labor organization that represents both guards and non-guards as the designated exclusive collective-bargaining representative of a unit of the employer's guards, and has entered into one or more collective-bargaining agreements with such labor organization covering such unit, violates Section 8(a)(5) of the Act when it withdraws recognition from that labor organization upon expiration of the collective-bargaining agreement because that labor organization is a mixed-guard labor organization that is not certifiable by the Board under Section 9(b)(3).

2.

Respondent does not contend that it was privileged to withdraw recognition from any of the respective labor organizations in the six units at issue herein because of any of the following reasons:

- (a) A good faith impasse had been reached in bargaining for a successor agreement; and/or

(b) Respondent had objective evidence that the respective labor organization no longer enjoyed majority support among the employees in the unit.

3.

Respondent, in stipulating to the term “designated” herein, does not stipulate that Local 439, Local 315, Local 853, Local 150, Local 542, and/or Local 396 are certifiable under Section 9(b)(3) of the Act as representatives of Respondent’s employees in, respectively, the Stockton Unit, the Richmond Unit, the Milpitas Unit, the Sacramento Unit, the San Diego Unit, and the Los Angeles Unit.

4.

Respondent, in stipulating to the phrase “based on Section 9(a) of the Act” herein, does not stipulate that Local 439, Local 315, Local 853, Local 150, Local 542, and/or Local 396 are certifiable under Section 9(b)(3) of the Act as representatives of Respondent’s employees in, respectively, the Stockton Unit, the Richmond Unit, the Milpitas Unit, the Sacramento Unit, the San Diego Unit, and the Los Angeles Unit.

5.

All parties herein agree that all essential relevant and material evidence necessary to dispose of the issues raised by the pleadings is contained in this Stipulation and the exhibits attached to the Joint Motion to Submit Stipulated Record to the Administrative Law Judge. All parties further admit that the documents contained in said exhibits are authentic and that the recipient received them on or about the date on the face of the documents.

6.

This Stipulation is made without prejudice to any objection that any party may have as to the relevancy of any facts stated herein.

LOOMIS ARMORED US, INC.

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 315,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 853,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL 150, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25708)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS, LOCAL NO. 542, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
(with respect to the factual allegations related to Case 32-CA-25709)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

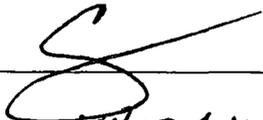
PACKAGE AND GENERAL UTILITY  
DRIVERS, LOCAL 396, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
(with respect to the factual allegations related to Case 32-CA-25727)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

COUNSEL FOR THE GENERAL COUNSEL

BY:

  
\_\_\_\_\_

DATE:

10/12/11  
\_\_\_\_\_

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

LOOMIS ARMORED US, INC.

and

Case 32-CA-25316

TEAMSTERS LOCAL UNION NO. 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION;  
TEAMSTERS LOCAL UNION NO. 315,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION;  
and TEAMSTERS LOCAL UNION NO. 853,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION

LOOMIS ARMORED US, INC.

and

Case 32-CA-25708

TEAMSTERS LOCAL 150, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
CHANGE TO WIN COALITION

LOOMIS ARMORED US, INC.

and

Case 32-CA-25709

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS, LOCAL NO. 542, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

LOOMIS ARMORED US, INC.

and

Case-32-CA-25727

PACKAGE AND GENERAL UTILITY  
DRIVERS, LOCAL 396, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

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## STIPULATION OF FACTS

It is hereby stipulated and agreed by and among Loomis Armored US, Inc., herein called Respondent, Teamsters Local Union No. 439, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 439, Teamsters Local Union No. 315, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 315, Teamsters Local Union No. 853, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 853, Teamsters Local 150, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 150, Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 542, International Brotherhood of Teamsters, herein called Local 542, Package and General Utility Drivers, Local 396, International Brotherhood of Teamsters, herein called Local 396, and Counsel for the General Counsel as follows:

Case 32-CA-25316

1.

On August 16, 2010, Local 439, Local 315, and Local 853 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date. Local 439, Local 315, and Local 853 filed a first-amended charge on March 7, 2011, and a copy thereof was served on Respondent by mail on or about March 8, 2011.

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2.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with branch offices and places of business in Stockton, Richmond, and Milpitas, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

3.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4.

At all times material herein, Local 439, Local 315, and Local 853, and their respective immediate predecessors, have each been a labor organization within the meaning of Section 2(5) of the Act.

5.

At all times material herein, Local 439, Local 315, and Local 853 have each been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

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6.

(a) Beginning on or about 1990, Local 439 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Stockton, California branch, herein called the Stockton Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, vault employees, mechanics, turret guards, and supervisory employees as defined in the Act.

(b) Since on or about 1990 until on or about July 27, 2010, Local 439 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Stockton Agreement, was effective by its terms for the period April 1, 2009 to March 31, 2010.

(c) The employees in the Stockton Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least on or about 1990, until on or about July 27, 2010, based on Section 9(a) of the Act, Local 439 was the exclusive collective-bargaining representative of the Stockton Unit.

7.

(a) Beginning on or about 1995, Teamsters Local Union No. 490, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 490, was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Richmond, California branch, herein called the Richmond Unit:

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All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen, and supervisory employees as defined in the Act.

(b) Since on or about 1995 until on or about July 1, 2008, Local 490 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Richmond Agreement, was effective by its terms for the period October 1, 2007 to September 30, 2010.

(c) On or about July 1, 2008, Local 490 merged with Local 315 and, thereafter, Local 490 ceased to exist. Since on or about July 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 490 and the post-merger Local 315, and, therefore, Local 315 is the successor to Local 490.

(d) Beginning on or about July 1, 2008, Local 315 was the designated exclusive collective-bargaining representative of the employees in the Richmond Unit, and since that date until on or about September 30, 2010, Local 315 was voluntarily recognized as such representative by Respondent. Such recognition was embodied in the Richmond Agreement.

(e) The employees in the Richmond Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(f) At all times from at least on or about 1995, until on or about July 1, 2008, based on Section 9(a) of the Act, Local 490 was the exclusive collective-bargaining representative of the Richmond Unit.

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(g) At all times from at least on or about July 1, 2008, until September 30, 2010, based on Section 9(a) of the Act, Local 315 was the exclusive collective-bargaining representative of the Richmond Unit.

8.

(a) Beginning on or about 2000, Teamsters Local Union No. 78, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 78, was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Milpitas, California branch, herein called the Milpitas Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen and supervisory employees as defined in the Act.

(b) Since on or about 2000 until on or about February 1, 2008, Local 78 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Milpitas Agreement, was effective by its terms for the period October 1, 2007 to September 30, 2010.

(c) On or about February 1, 2008, Local 78 merged with Local 853 and, thereafter, Local 78 ceased to exist. Since on or about February 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 78 and the post-merger Local 853, and, therefore, Local 853 is the successor to Local 78.

(d) Beginning on or about February 1, 2008, Local 853 was the designated exclusive collective-bargaining representative of the employees in the Milpitas Unit, and

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since that date until on or about September 30, 2010, Local 853 was voluntarily recognized as such representative by Respondent. Such recognition was embodied in the Milpitas Agreement.

(e) The employees in the Milpitas Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(f) At all times from at least on or about 2000, until on or about February 1, 2008, based on Section 9(a) of the Act, Local 78 was the exclusive collective-bargaining representative of the Milpitas Unit.

(g) At all times from at least on or about February 1, 2008, until on or about September 30, 2010, based on Section 9(a) of the Act, Local 853 was the exclusive collective-bargaining representative of the Milpitas Unit.

9.

On or about July 27, 2010, Respondent withdrew recognition of Local 439 as the exclusive collective-bargaining representative of the employees in the Stockton Unit, and since that date Respondent has refused, and continues to refuse, to recognize or bargain with Local 439 as the collective-bargaining representative of the employees in the Stockton Unit.

Respondent withdrew recognition of Local 439 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 439 no longer retained majority support among the employees in the Stockton Unit. Respondent does

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not contend that a good faith impasse had been reached in bargaining for a successor agreement.

10.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 490, and thereby of Local 315, the successor to Local 490, as the exclusive collective-bargaining representative of the employees in the Richmond Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 315 as the collective-bargaining representative of the employees in the Richmond Unit.

Respondent withdrew recognition of Local 315 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 315 no longer retained majority support among the employees in the Richmond Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

11.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 853 as the exclusive collective-bargaining representative of the employees in the Milpitas Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 853 as the collective-bargaining representative of the employees in the Milpitas Unit.

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Respondent withdrew recognition of Local 853 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 853 no longer retained majority support among the employees in the Milpitas Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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12.

On February 23, 2011, Local 150 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date.

13.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in Sacramento, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or

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provided services valued in excess of \$50,000 directly to customers located outside the State of California.

14.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

15.

At all times material herein, Local 150 has been a labor organization within the meaning of Section 2(5) of the Act.

16.

At all times material herein, Local 150 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

17.

(a) Beginning on or about 1965, Local 150 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Sacramento, California branch, herein called the Sacramento Unit:

All full-time and regular part-time employees employed by Respondent out of its Sacramento facility as custodians, drivers, and guards; excluding all other employees, office and clerical employees, watchmen, and supervisors as defined in the Act.

(b) Since at least 1965, until on or about November 30, 2010, Local 150 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining

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agreements, the most recent of which, herein called the Sacramento Agreement, was effective by its terms for the period December 1, 2006 to November 30, 2010.

(c) The employees in the Sacramento Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1965, until on or about November 30, 2010, based on Section 9(a) of the Act, Local 150 was the exclusive collective-bargaining representative of the Sacramento Unit.

18.

On or about September 27, 2010, Respondent withdrew recognition, effective November 30, 2010, of Local 150 as the exclusive collective-bargaining representative of the employees in the Sacramento Unit, and since November 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 150 as the collective-bargaining representative of the employees in the Sacramento Unit.

Respondent withdrew recognition of Local 150 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 150 no longer retained majority support among the employees in the Sacramento Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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19.

On January 20, 2011, Local 542 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date. Local 542 filed a first-amended charge on March 8, 2011, and a copy thereof was served on Respondent by mail on or about March 9, 2011.

20.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in San Diego, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

21.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

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22.

At all times material herein, Local 542 has been a labor organization within the meaning of Section 2(5) of the Act.

23.

At all times material herein, Local 542 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

24.

(a) Beginning on or about 1963, Local 542 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its San Diego, California branch, herein called the San Diego Unit:

All full-time and regular part-time employees employed by Respondent out of its San Diego branch as custodians, drivers, and guards; excluding all other employees, vault employees, turret employees, office clerical employees, professional employees and supervisors as defined in the Act.

(b) Since at least 1963, until on or about February 28, 2011, Local 542 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the San Diego Agreement, was effective by its terms for the period March 1, 2010 to February 28, 2011.

(c) The employees in the San Diego Unit are all guards within the meaning of Section 9(b)(3) of the Act.

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(d) At all times from at least 1963, until on or about February 28, 2011, based on Section 9(a) of the Act, Local 542 was the exclusive collective-bargaining representative of the San Diego Unit.

25.

On or about December 20, 2010, Respondent withdrew recognition, effective February 28, 2011, of Local 542 as the exclusive collective-bargaining representative of the employees in the San Diego Unit, and since February 28, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 542 as the collective-bargaining representative of the employees in the San Diego Unit.

Respondent withdrew recognition of Local 542 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 542 no longer retained majority support among the employees in the San Diego Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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26.

On January 20, 2011, Local 396 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or

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about January 25, 2011. Local 396 filed a first-amended charge on March 8, 2011, and a copy thereof was served on Respondent by mail on or about March 9, 2011.

27.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in Los Angeles, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

28.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

29.

At all times material herein, Local 396 has been a labor organization within the meaning of Section 2(5) of the Act.

30.

At all times material herein, Local 396 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

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31.

(a) Beginning on or about 1981, Local 396 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Los Angeles, California branch, herein called the Los Angeles Unit:

All regular full-time and part-time custodians, drivers, guards, and vault employees working out of the Respondent's City of Los Angeles, California (Pico) branch.

(b) Since at least 1981, until on or about January 31, 2011, Local 396 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Los Angeles Agreement, was effective by its terms for the period February 1, 2010 to January 31, 2011.

(c) The employees in the Los Angeles Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1981, until on or about January 31, 2011, based on Section 9(a) of the Act, Local 396 was the exclusive collective-bargaining representative of the Los Angeles Unit.

32.

On or about November 23, 2010, Respondent withdrew recognition, effective January 31, 2011, of Local 396 as the exclusive collective-bargaining representative of the employees in the Los Angeles Unit, and since January 31, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 396 as the collective-bargaining representative of the employees in the Los Angeles Unit.

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Respondent withdrew recognition of Local 396 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 396 no longer retained majority support among the employees in the Los Angeles Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

#### STATEMENT OF THE ISSUE PRESENTED

1.

The legal issue presented by this case is whether an employer that has voluntarily recognized a labor organization that represents both guards and non-guards as the designated exclusive collective-bargaining representative of a unit of the employer's guards, and has entered into one or more collective-bargaining agreements with such labor organization covering such unit, violates Section 8(a)(5) of the Act when it withdraws recognition from that labor organization upon expiration of the collective-bargaining agreement because that labor organization is a mixed-guard labor organization that is not certifiable by the Board under Section 9(b)(3).

2.

Respondent does not contend that it was privileged to withdraw recognition from any of the respective labor organizations in the six units at issue herein because of any of the following reasons:

- (a) A good faith impasse had been reached in bargaining for a successor agreement; and/or

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(b) Respondent had objective evidence that the respective labor organization no longer enjoyed majority support among the employees in the unit.

3.

Respondent, in stipulating to the term “designated” herein, does not stipulate that Local 439, Local 315, Local 853, Local 150, Local 542, and/or Local 396 are certifiable under Section 9(b)(3) of the Act as representatives of Respondent’s employees in, respectively, the Stockton Unit, the Richmond Unit, the Milpitas Unit, the Sacramento Unit, the San Diego Unit, and the Los Angeles Unit.

4.

Respondent, in stipulating to the phrase “based on Section 9(a) of the Act” herein, does not stipulate that Local 439, Local 315, Local 853, Local 150, Local 542, and/or Local 396 are certifiable under Section 9(b)(3) of the Act as representatives of Respondent’s employees in, respectively, the Stockton Unit, the Richmond Unit, the Milpitas Unit, the Sacramento Unit, the San Diego Unit, and the Los Angeles Unit.

5.

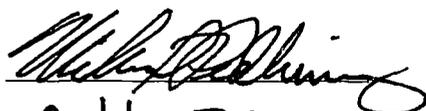
All parties herein agree that all essential relevant and material evidence necessary to dispose of the issues raised by the pleadings is contained in this Stipulation and the exhibits attached to the Joint Motion to Submit Stipulated Record to the Administrative Law Judge. All parties further admit that the documents contained in said exhibits are authentic and that the recipient received them on or about the date on the face of the documents.

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6.

This Stipulation is made without prejudice to any objection that any party may have as to the relevancy of any facts stated herein.

LOOMIS ARMORED US, INC.

BY:   
DATE: October 7, 2011

TEAMSTERS LOCAL UNION NO. 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 315,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_

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TEAMSTERS LOCAL UNION NO. 853,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL 150, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25708)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS, LOCAL NO. 542, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
(with respect to the factual allegations related to Case 32-CA-25709)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

PACKAGE AND GENERAL UTILITY  
DRIVERS, LOCAL 396, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
(with respect to the factual allegations related to Case 32-CA-25727)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

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COUNSEL FOR THE GENERAL COUNSEL

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

LOOMIS ARMORED US, INC.

and

Case 32-CA-25316

TEAMSTERS LOCAL UNION NO. 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION;  
TEAMSTERS LOCAL UNION NO. 315,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION;  
and TEAMSTERS LOCAL UNION NO. 853,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION

LOOMIS ARMORED US, INC.

and

Case 32-CA-25708

TEAMSTERS LOCAL 150, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
CHANGE TO WIN COALITION

LOOMIS ARMORED US, INC.

and

Case 32-CA-25709

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS, LOCAL NO. 542, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

LOOMIS ARMORED US, INC.

and

Case-32-CA-25727

PACKAGE AND GENERAL UTILITY  
DRIVERS, LOCAL 396, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

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## STIPULATION OF FACTS

It is hereby stipulated and agreed by and among Loomis Armored US, Inc., herein called Respondent, Teamsters Local Union No. 439, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 439, Teamsters Local Union No. 315, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 315, Teamsters Local Union No. 853, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 853, Teamsters Local 150, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 150, Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 542, International Brotherhood of Teamsters, herein called Local 542, Package and General Utility Drivers, Local 396, International Brotherhood of Teamsters, herein called Local 396, and Counsel for the General Counsel as follows:

Case 32-CA-25316

1.

On August 16, 2010, Local 439, Local 315, and Local 853 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date. Local 439, Local 315, and Local 853 filed a first-amended charge on March 7, 2011, and a copy thereof was served on Respondent by mail on or about March 8, 2011.

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2.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with branch offices and places of business in Stockton, Richmond, and Milpitas, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

3.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4.

At all times material herein, Local 439, Local 315, and Local 853, and their respective immediate predecessors, have each been a labor organization within the meaning of Section 2(5) of the Act.

5.

At all times material herein, Local 439, Local 315, and Local 853 have each been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

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6.

(a) Beginning on or about 1990, Local 439 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Stockton, California branch, herein called the Stockton Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, vault employees, mechanics, turret guards, and supervisory employees as defined in the Act.

(b) Since on or about 1990 until on or about July 27, 2010, Local 439 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Stockton Agreement, was effective by its terms for the period April 1, 2009 to March 31, 2010.

(c) The employees in the Stockton Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least on or about 1990, until on or about July 27, 2010, based on Section 9(a) of the Act, Local 439 was the exclusive collective-bargaining representative of the Stockton Unit.

7.

(a) Beginning on or about 1995, Teamsters Local Union No. 490, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 490, was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Richmond, California branch, herein called the Richmond Unit:

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All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen, and supervisory employees as defined in the Act.

(b) Since on or about 1995 until on or about July 1, 2008, Local 490 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Richmond Agreement, was effective by its terms for the period October 1, 2007 to September 30, 2010.

(c) On or about July 1, 2008, Local 490 merged with Local 315 and, thereafter, Local 490 ceased to exist. Since on or about July 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 490 and the post-merger Local 315, and, therefore, Local 315 is the successor to Local 490.

(d) Beginning on or about July 1, 2008, Local 315 was the designated exclusive collective-bargaining representative of the employees in the Richmond Unit, and since that date until on or about September 30, 2010, Local 315 was voluntarily recognized as such representative by Respondent. Such recognition was embodied in the Richmond Agreement.

(e) The employees in the Richmond Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(f) At all times from at least on or about 1995, until on or about July 1, 2008, based on Section 9(a) of the Act, Local 490 was the exclusive collective-bargaining representative of the Richmond Unit.

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(g) At all times from at least on or about July 1, 2008, until September 30, 2010, based on Section 9(a) of the Act, Local 315 was the exclusive collective-bargaining representative of the Richmond Unit.

8.

(a) Beginning on or about 2000, Teamsters Local Union No. 78, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 78, was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Milpitas, California branch, herein called the Milpitas Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen and supervisory employees as defined in the Act.

(b) Since on or about 2000 until on or about February 1, 2008, Local 78 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Milpitas Agreement, was effective by its terms for the period October 1, 2007 to September 30, 2010.

(c) On or about February 1, 2008, Local 78 merged with Local 853 and, thereafter, Local 78 ceased to exist. Since on or about February 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 78 and the post-merger Local 853, and, therefore, Local 853 is the successor to Local 78.

(d) Beginning on or about February 1, 2008, Local 853 was the designated exclusive collective-bargaining representative of the employees in the Milpitas Unit, and

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since that date until on or about September 30, 2010, Local 853 was voluntarily recognized as such representative by Respondent. Such recognition was embodied in the Milpitas Agreement.

(e) The employees in the Milpitas Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(f) At all times from at least on or about 2000, until on or about February 1, 2008, based on Section 9(a) of the Act, Local 78 was the exclusive collective-bargaining representative of the Milpitas Unit.

(g) At all times from at least on or about February 1, 2008, until on or about September 30, 2010, based on Section 9(a) of the Act, Local 853 was the exclusive collective-bargaining representative of the Milpitas Unit.

9.

On or about July 27, 2010, Respondent withdrew recognition of Local 439 as the exclusive collective-bargaining representative of the employees in the Stockton Unit, and since that date Respondent has refused, and continues to refuse, to recognize or bargain with Local 439 as the collective-bargaining representative of the employees in the Stockton Unit.

Respondent withdrew recognition of Local 439 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 439 no longer retained majority support among the employees in the Stockton Unit. Respondent does

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not contend that a good faith impasse had been reached in bargaining for a successor agreement.

10.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 490, and thereby of Local 315, the successor to Local 490, as the exclusive collective-bargaining representative of the employees in the Richmond Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 315 as the collective-bargaining representative of the employees in the Richmond Unit.

Respondent withdrew recognition of Local 315 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 315 no longer retained majority support among the employees in the Richmond Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

11.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 853 as the exclusive collective-bargaining representative of the employees in the Milpitas Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 853 as the collective-bargaining representative of the employees in the Milpitas Unit.

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Respondent withdrew recognition of Local 853 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 853 no longer retained majority support among the employees in the Milpitas Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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12.

On February 23, 2011, Local 150 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date.

13.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in Sacramento, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or

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provided services valued in excess of \$50,000 directly to customers located outside the State of California.

14.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

15.

At all times material herein, Local 150 has been a labor organization within the meaning of Section 2(5) of the Act.

16.

At all times material herein, Local 150 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

17.

(a) Beginning on or about 1965, Local 150 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Sacramento, California branch, herein called the Sacramento Unit:

All full-time and regular part-time employees employed by Respondent out of its Sacramento facility as custodians, drivers, and guards; excluding all other employees, office and clerical employees, watchmen, and supervisors as defined in the Act.

(b) Since at least 1965, until on or about November 30, 2010, Local 150 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining

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agreements, the most recent of which, herein called the Sacramento Agreement, was effective by its terms for the period December 1, 2006 to November 30, 2010.

(c) The employees in the Sacramento Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1965, until on or about November 30, 2010, based on Section 9(a) of the Act, Local 150 was the exclusive collective-bargaining representative of the Sacramento Unit.

18.

On or about September 27, 2010, Respondent withdrew recognition, effective November 30, 2010, of Local 150 as the exclusive collective-bargaining representative of the employees in the Sacramento Unit, and since November 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 150 as the collective-bargaining representative of the employees in the Sacramento Unit.

Respondent withdrew recognition of Local 150 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 150 no longer retained majority support among the employees in the Sacramento Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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19.

On January 20, 2011, Local 542 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date. Local 542 filed a first-amended charge on March 8, 2011, and a copy thereof was served on Respondent by mail on or about March 9, 2011.

20.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in San Diego, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

21.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

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22.

At all times material herein, Local 542 has been a labor organization within the meaning of Section 2(5) of the Act.

23.

At all times material herein, Local 542 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

24.

(a) Beginning on or about 1963, Local 542 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its San Diego, California branch, herein called the San Diego Unit:

All full-time and regular part-time employees employed by Respondent out of its San Diego branch as custodians, drivers, and guards; excluding all other employees, vault employees, turret employees, office clerical employees, professional employees and supervisors as defined in the Act.

(b) Since at least 1963, until on or about February 28, 2011, Local 542 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the San Diego Agreement, was effective by its terms for the period March 1, 2010 to February 28, 2011.

(c) The employees in the San Diego Unit are all guards within the meaning of Section 9(b)(3) of the Act.

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(d) At all times from at least 1963, until on or about February 28, 2011, based on Section 9(a) of the Act, Local 542 was the exclusive collective-bargaining representative of the San Diego Unit.

25.

On or about December 20, 2010, Respondent withdrew recognition, effective February 28, 2011, of Local 542 as the exclusive collective-bargaining representative of the employees in the San Diego Unit, and since February 28, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 542 as the collective-bargaining representative of the employees in the San Diego Unit.

Respondent withdrew recognition of Local 542 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 542 no longer retained majority support among the employees in the San Diego Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

Case-32-CA-25727

26.

On January 20, 2011, Local 396 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or

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about January 25, 2011. Local 396 filed a first-amended charge on March 8, 2011, and a copy thereof was served on Respondent by mail on or about March 9, 2011.

27.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in Los Angeles, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

28.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

29.

At all times material herein, Local 396 has been a labor organization within the meaning of Section 2(5) of the Act.

30.

At all times material herein, Local 396 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

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31.

(a) Beginning on or about 1981, Local 396 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Los Angeles, California branch, herein called the Los Angeles Unit:

All regular full-time and part-time custodians, drivers, guards, and vault employees working out of the Respondent's City of Los Angeles, California (Pico) branch.

(b) Since at least 1981, until on or about January 31, 2011, Local 396 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Los Angeles Agreement, was effective by its terms for the period February 1, 2010 to January 31, 2011.

(c) The employees in the Los Angeles Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1981, until on or about January 31, 2011, based on Section 9(a) of the Act, Local 396 was the exclusive collective-bargaining representative of the Los Angeles Unit.

32.

On or about November 23, 2010, Respondent withdrew recognition, effective January 31, 2011, of Local 396 as the exclusive collective-bargaining representative of the employees in the Los Angeles Unit, and since January 31, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 396 as the collective-bargaining representative of the employees in the Los Angeles Unit.

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Respondent withdrew recognition of Local 396 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 396 no longer retained majority support among the employees in the Los Angeles Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

#### STATEMENT OF THE ISSUE PRESENTED

1.

The legal issue presented by this case is whether an employer that has voluntarily recognized a labor organization that represents both guards and non-guards as the designated exclusive collective-bargaining representative of a unit of the employer's guards, and has entered into one or more collective-bargaining agreements with such labor organization covering such unit, violates Section 8(a)(5) of the Act when it withdraws recognition from that labor organization upon expiration of the collective-bargaining agreement because that labor organization is a mixed-guard labor organization that is not certifiable by the Board under Section 9(b)(3).

2.

Respondent does not contend that it was privileged to withdraw recognition from any of the respective labor organizations in the six units at issue herein because of any of the following reasons:

- (a) A good faith impasse had been reached in bargaining for a successor agreement; and/or

(b) Respondent had objective evidence that the respective labor organization no longer enjoyed majority support among the employees in the unit.

3.

Respondent, in stipulating to the term “designated” herein, does not stipulate that Local 439, Local 315, Local 853, Local 150, Local 542, and/or Local 396 are certifiable under Section 9(b)(3) of the Act as representatives of Respondent’s employees in, respectively, the Stockton Unit, the Richmond Unit, the Milpitas Unit, the Sacramento Unit, the San Diego Unit, and the Los Angeles Unit.

4.

Respondent, in stipulating to the phrase “based on Section 9(a) of the Act” herein, does not stipulate that Local 439, Local 315, Local 853, Local 150, Local 542, and/or Local 396 are certifiable under Section 9(b)(3) of the Act as representatives of Respondent’s employees in, respectively, the Stockton Unit, the Richmond Unit, the Milpitas Unit, the Sacramento Unit, the San Diego Unit, and the Los Angeles Unit.

5.

All parties herein agree that all essential relevant and material evidence necessary to dispose of the issues raised by the pleadings is contained in this Stipulation and the exhibits attached to the Joint Motion to Submit Stipulated Record to the Administrative Law Judge. All parties further admit that the documents contained in said exhibits are authentic and that the recipient received them on or about the date on the face of the documents.

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6.

This Stipulation is made without prejudice to any objection that any party may have as to the relevancy of any facts stated herein.

LOOMIS ARMORED US, INC.

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 315,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

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TEAMSTERS LOCAL UNION NO. 853,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL 150, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25708)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS, LOCAL NO. 542, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
(with respect to the factual allegations related to Case 32-CA-25709)

BY: *[Signature]*

DATE: 9/30/11

PACKAGE AND GENERAL UTILITY  
DRIVERS, LOCAL 396, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
(with respect to the factual allegations related to Case 32-CA-25727)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

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COUNSEL FOR THE GENERAL COUNSEL

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

LOOMIS ARMORED US, INC.

and

Case 32-CA-25316

TEAMSTERS LOCAL UNION NO. 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION;  
TEAMSTERS LOCAL UNION NO. 315,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION;  
and TEAMSTERS LOCAL UNION NO. 853,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION

LOOMIS ARMORED US, INC.

and

Case 32-CA-25708

TEAMSTERS LOCAL 150, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
CHANGE TO WIN COALITION

LOOMIS ARMORED US, INC.

and

Case 32-CA-25709

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS, LOCAL NO. 542, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

LOOMIS ARMORED US, INC.

and

Case-32-CA-25727

PACKAGE AND GENERAL UTILITY  
DRIVERS, LOCAL 396, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

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## STIPULATION OF FACTS

It is hereby stipulated and agreed by and among Loomis Armored US, Inc., herein called Respondent, Teamsters Local Union No. 439, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 439, Teamsters Local Union No. 315, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 315, Teamsters Local Union No. 853, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 853, Teamsters Local 150, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 150, Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 542, International Brotherhood of Teamsters, herein called Local 542, Package and General Utility Drivers, Local 396, International Brotherhood of Teamsters, herein called Local 396, and Counsel for the General Counsel as follows:

Case 32-CA-25316

1.

On August 16, 2010, Local 439, Local 315, and Local 853 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date. Local 439, Local 315, and Local 853 filed a first-amended charge on March 7, 2011, and a copy thereof was served on Respondent by mail on or about March 8, 2011.

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2.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with branch offices and places of business in Stockton, Richmond, and Milpitas, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

3.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4.

At all times material herein, Local 439, Local 315, and Local 853, and their respective immediate predecessors, have each been a labor organization within the meaning of Section 2(5) of the Act.

5.

At all times material herein, Local 439, Local 315, and Local 853 have each been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

6.

(a) Beginning on or about 1990, Local 439 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Stockton, California branch, herein called the Stockton Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, vault employees, mechanics, turret guards, and supervisory employees as defined in the Act.

(b) Since on or about 1990 until on or about July 27, 2010, Local 439 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Stockton Agreement, was effective by its terms for the period April 1, 2009 to March 31, 2010.

(c) The employees in the Stockton Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least on or about 1990, until on or about July 27, 2010, based on Section 9(a) of the Act, Local 439 was the exclusive collective-bargaining representative of the Stockton Unit.

7.

(a) Beginning on or about 1995, Teamsters Local Union No. 490, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 490, was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Richmond, California branch, herein called the Richmond Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen, and supervisory employees as defined in the Act.

(b) Since on or about 1995 until on or about July 1, 2008, Local 490 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Richmond Agreement, was effective by its terms for the period October 1, 2007 to September 30, 2010.

(c) On or about July 1, 2008, Local 490 merged with Local 315 and, thereafter, Local 490 ceased to exist. Since on or about July 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 490 and the post-merger Local 315, and, therefore, Local 315 is the successor to Local 490.

(d) Beginning on or about July 1, 2008, Local 315 was the designated exclusive collective-bargaining representative of the employees in the Richmond Unit, and since that date until on or about September 30, 2010, Local 315 was voluntarily recognized as such representative by Respondent. Such recognition was embodied in the Richmond Agreement.

(e) The employees in the Richmond Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(f) At all times from at least on or about 1995, until on or about July 1, 2008, based on Section 9(a) of the Act, Local 490 was the exclusive collective-bargaining representative of the Richmond Unit.

(g) At all times from at least on or about July 1, 2008, until September 30, 2010, based on Section 9(a) of the Act, Local 315 was the exclusive collective-bargaining representative of the Richmond Unit.

8.

(a) Beginning on or about 2000, Teamsters Local Union No. 78, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 78, was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Milpitas, California branch, herein called the Milpitas Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen and supervisory employees as defined in the Act.

(b) Since on or about 2000 until on or about February 1, 2008, Local 78 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Milpitas Agreement, was effective by its terms for the period October 1, 2007 to September 30, 2010.

(c) On or about February 1, 2008, Local 78 merged with Local 853 and, thereafter, Local 78 ceased to exist. Since on or about February 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 78 and the post-merger Local 853, and, therefore, Local 853 is the successor to Local 78.

(d) Beginning on or about February 1, 2008, Local 853 was the designated exclusive collective-bargaining representative of the employees in the Milpitas Unit, and

since that date until on or about September 30, 2010, Local 853 was voluntarily recognized as such representative by Respondent. Such recognition was embodied in the Milpitas Agreement.

(e) The employees in the Milpitas Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(f) At all times from at least on or about 2000, until on or about February 1, 2008, based on Section 9(a) of the Act, Local 78 was the exclusive collective-bargaining representative of the Milpitas Unit.

(g) At all times from at least on or about February 1, 2008, until on or about September 30, 2010, based on Section 9(a) of the Act, Local 853 was the exclusive collective-bargaining representative of the Milpitas Unit.

9.

On or about July 27, 2010, Respondent withdrew recognition of Local 439 as the exclusive collective-bargaining representative of the employees in the Stockton Unit, and since that date Respondent has refused, and continues to refuse, to recognize or bargain with Local 439 as the collective-bargaining representative of the employees in the Stockton Unit.

Respondent withdrew recognition of Local 439 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 439 no longer retained majority support among the employees in the Stockton Unit. Respondent does

not contend that a good faith impasse had been reached in bargaining for a successor agreement.

10.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 490, and thereby of Local 315, the successor to Local 490, as the exclusive collective-bargaining representative of the employees in the Richmond Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 315 as the collective-bargaining representative of the employees in the Richmond Unit.

Respondent withdrew recognition of Local 315 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 315 no longer retained majority support among the employees in the Richmond Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

11.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 853 as the exclusive collective-bargaining representative of the employees in the Milpitas Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 853 as the collective-bargaining representative of the employees in the Milpitas Unit.

Respondent withdrew recognition of Local 853 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 853 no longer retained majority support among the employees in the Milpitas Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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12.

On February 23, 2011, Local 150 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date.

13.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in Sacramento, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or

provided services valued in excess of \$50,000 directly to customers located outside the State of California.

14.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

15.

At all times material herein, Local 150 has been a labor organization within the meaning of Section 2(5) of the Act.

16.

At all times material herein, Local 150 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

17.

(a) Beginning on or about 1965, Local 150 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Sacramento, California branch, herein called the Sacramento Unit:

All full-time and regular part-time employees employed by Respondent out of its Sacramento facility as custodians, drivers, and guards; excluding all other employees, office and clerical employees, watchmen, and supervisors as defined in the Act.

(b) Since at least 1965, until on or about November 30, 2010, Local 150 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining

agreements, the most recent of which, herein called the Sacramento Agreement, was effective by its terms for the period December 1, 2006 to November 30, 2010.

(c) The employees in the Sacramento Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1965, until on or about November 30, 2010, based on Section 9(a) of the Act, Local 150 was the exclusive collective-bargaining representative of the Sacramento Unit.

18.

On or about September 27, 2010, Respondent withdrew recognition, effective November 30, 2010, of Local 150 as the exclusive collective-bargaining representative of the employees in the Sacramento Unit, and since November 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 150 as the collective-bargaining representative of the employees in the Sacramento Unit.

Respondent withdrew recognition of Local 150 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 150 no longer retained majority support among the employees in the Sacramento Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

19.

On January 20, 2011, Local 542 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date. Local 542 filed a first-amended charge on March 8, 2011, and a copy thereof was served on Respondent by mail on or about March 9, 2011.

20.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in San Diego, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

21.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

22.

At all times material herein, Local 542 has been a labor organization within the meaning of Section 2(5) of the Act.

23.

At all times material herein, Local 542 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

24.

(a) Beginning on or about 1963, Local 542 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its San Diego, California branch, herein called the San Diego Unit:

All full-time and regular part-time employees employed by Respondent out of its San Diego branch as custodians, drivers, and guards; excluding all other employees, vault employees, turret employees, office clerical employees, professional employees and supervisors as defined in the Act.

(b) Since at least 1963, until on or about February 28, 2011, Local 542 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the San Diego Agreement, was effective by its terms for the period March 1, 2010 to February 28, 2011.

(c) The employees in the San Diego Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1963, until on or about February 28, 2011, based on Section 9(a) of the Act, Local 542 was the exclusive collective-bargaining representative of the San Diego Unit.

25.

On or about December 20, 2010, Respondent withdrew recognition, effective February 28, 2011, of Local 542 as the exclusive collective-bargaining representative of the employees in the San Diego Unit, and since February 28, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 542 as the collective-bargaining representative of the employees in the San Diego Unit.

Respondent withdrew recognition of Local 542 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 542 no longer retained majority support among the employees in the San Diego Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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26.

On January 20, 2011, Local 396 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or

about January 25, 2011. Local 396 filed a first-amended charge on March 8, 2011, and a copy thereof was served on Respondent by mail on or about March 9, 2011.

27.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in Los Angeles, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

28.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

29.

At all times material herein, Local 396 has been a labor organization within the meaning of Section 2(5) of the Act.

30.

At all times material herein, Local 396 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

31.

(a) Beginning on or about 1981, Local 396 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Los Angeles, California branch, herein called the Los Angeles Unit:

All regular full-time and part-time custodians, drivers, guards, and vault employees working out of the Respondent's City of Los Angeles, California (Pico) branch.

(b) Since at least 1981, until on or about January 31, 2011, Local 396 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Los Angeles Agreement, was effective by its terms for the period February 1, 2010 to January 31, 2011.

(c) The employees in the Los Angeles Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1981, until on or about January 31, 2011, based on Section 9(a) of the Act, Local 396 was the exclusive collective-bargaining representative of the Los Angeles Unit.

32.

On or about November 23, 2010, Respondent withdrew recognition, effective January 31, 2011, of Local 396 as the exclusive collective-bargaining representative of the employees in the Los Angeles Unit, and since January 31, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 396 as the collective-bargaining representative of the employees in the Los Angeles Unit.

Respondent withdrew recognition of Local 396 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 396 no longer retained majority support among the employees in the Los Angeles Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

#### STATEMENT OF THE ISSUE PRESENTED

1.

The legal issue presented by this case is whether an employer that has voluntarily recognized a labor organization that represents both guards and non-guards as the designated exclusive collective-bargaining representative of a unit of the employer's guards, and has entered into one or more collective-bargaining agreements with such labor organization covering such unit, violates Section 8(a)(5) of the Act when it withdraws recognition from that labor organization upon expiration of the collective-bargaining agreement because that labor organization is a mixed-guard labor organization that is not certifiable by the Board under Section 9(b)(3).

2.

Respondent does not contend that it was privileged to withdraw recognition from any of the respective labor organizations in the six units at issue herein because of any of the following reasons:

- (a) A good faith impasse had been reached in bargaining for a successor agreement; and/or

(b) Respondent had objective evidence that the respective labor organization no longer enjoyed majority support among the employees in the unit.

3.

Respondent, in stipulating to the term “designated” herein, does not stipulate that Local 439, Local 315, Local 853, Local 150, Local 542, and/or Local 396 are certifiable under Section 9(b)(3) of the Act as representatives of Respondent’s employees in, respectively, the Stockton Unit, the Richmond Unit, the Milpitas Unit, the Sacramento Unit, the San Diego Unit, and the Los Angeles Unit.

4.

Respondent, in stipulating to the phrase “based on Section 9(a) of the Act” herein, does not stipulate that Local 439, Local 315, Local 853, Local 150, Local 542, and/or Local 396 are certifiable under Section 9(b)(3) of the Act as representatives of Respondent’s employees in, respectively, the Stockton Unit, the Richmond Unit, the Milpitas Unit, the Sacramento Unit, the San Diego Unit, and the Los Angeles Unit.

5.

All parties herein agree that all essential relevant and material evidence necessary to dispose of the issues raised by the pleadings is contained in this Stipulation and the exhibits attached to the Joint Motion to Submit Stipulated Record to the Administrative Law Judge. All parties further admit that the documents contained in said exhibits are authentic and that the recipient received them on or about the date on the face of the documents.

6.

This Stipulation is made without prejudice to any objection that any party may have as to the relevancy of any facts stated herein.

LOOMIS ARMORED US, INC.

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: Andrew H. Beck

DATE: 9/29/11

TEAMSTERS LOCAL UNION NO. 315,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: Andrew H. Beck

DATE: 9/29/11

TEAMSTERS LOCAL UNION NO. 853,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY:           Audrey A. Bar          

DATE:           9/29/11          

TEAMSTERS LOCAL 150, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25708)

BY:           Audrey A. Bar          

DATE:           9/29/11          

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS, LOCAL NO. 542, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
(with respect to the factual allegations related to Case 32-CA-25709)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

PACKAGE AND GENERAL UTILITY  
DRIVERS, LOCAL 396, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
(with respect to the factual allegations related to Case 32-CA-25727)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

COUNSEL FOR THE GENERAL COUNSEL

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

LOOMIS ARMORED US, INC.

and

Case 32-CA-25316

TEAMSTERS LOCAL UNION NO. 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION;  
TEAMSTERS LOCAL UNION NO. 315,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION;  
and TEAMSTERS LOCAL UNION NO. 853,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION

LOOMIS ARMORED US, INC.

and

Case 32-CA-25708

TEAMSTERS LOCAL 150, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
CHANGE TO WIN COALITION

LOOMIS ARMORED US, INC.

and

Case 32-CA-25709

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS, LOCAL NO. 542, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

LOOMIS ARMORED US, INC.

and

Case-32-CA-25727

PACKAGE AND GENERAL UTILITY  
DRIVERS, LOCAL 396, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

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## STIPULATION OF FACTS

It is hereby stipulated and agreed by and among Loomis Armored US, Inc., herein called Respondent, Teamsters Local Union No. 439, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 439, Teamsters Local Union No. 315, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 315, Teamsters Local Union No. 853, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 853, Teamsters Local 150, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 150, Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 542, International Brotherhood of Teamsters, herein called Local 542, Package and General Utility Drivers, Local 396, International Brotherhood of Teamsters, herein called Local 396, and Counsel for the General Counsel as follows:

Case 32-CA-25316

1.

On August 16, 2010, Local 439, Local 315, and Local 853 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date. Local 439, Local 315, and Local 853 filed a first-amended charge on March 7, 2011, and a copy thereof was served on Respondent by mail on or about March 8, 2011.

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OAKLAND, CA.

2.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with branch offices and places of business in Stockton, Richmond, and Milpitas, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

3.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4.

At all times material herein, Local 439, Local 315, and Local 853, and their respective immediate predecessors, have each been a labor organization within the meaning of Section 2(5) of the Act.

5.

At all times material herein, Local 439, Local 315, and Local 853 have each been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

6.

(a) Beginning on or about 1990, Local 439 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Stockton, California branch, herein called the Stockton Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, vault employees, mechanics, turret guards, and supervisory employees as defined in the Act.

(b) Since on or about 1990 until on or about July 27, 2010, Local 439 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Stockton Agreement, was effective by its terms for the period April 1, 2009 to March 31, 2010.

(c) The employees in the Stockton Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least on or about 1990, until on or about July 27, 2010, based on Section 9(a) of the Act, Local 439 was the exclusive collective-bargaining representative of the Stockton Unit.

7.

(a) Beginning on or about 1995, Teamsters Local Union No. 490, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 490, was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Richmond, California branch, herein called the Richmond Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen, and supervisory employees as defined in the Act.

(b) Since on or about 1995 until on or about July 1, 2008, Local 490 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Richmond Agreement, was effective by its terms for the period October 1, 2007 to September 30, 2010.

(c) On or about July 1, 2008, Local 490 merged with Local 315 and, thereafter, Local 490 ceased to exist. Since on or about July 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 490 and the post-merger Local 315, and, therefore, Local 315 is the successor to Local 490.

(d) Beginning on or about July 1, 2008, Local 315 was the designated exclusive collective-bargaining representative of the employees in the Richmond Unit, and since that date until on or about September 30, 2010, Local 315 was voluntarily recognized as such representative by Respondent. Such recognition was embodied in the Richmond Agreement.

(e) The employees in the Richmond Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(f) At all times from at least on or about 1995, until on or about July 1, 2008, based on Section 9(a) of the Act, Local 490 was the exclusive collective-bargaining representative of the Richmond Unit.

(g) At all times from at least on or about July 1, 2008, until September 30, 2010, based on Section 9(a) of the Act, Local 315 was the exclusive collective-bargaining representative of the Richmond Unit.

8.

(a) Beginning on or about 2000, Teamsters Local Union No. 78, International Brotherhood of Teamsters, Change to Win Coalition, herein called Local 78, was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Milpitas, California branch, herein called the Milpitas Unit:

All full-time and regular part-time custodians, drivers, and guards; excluding all other employees, office clerical employees, watchmen and supervisory employees as defined in the Act.

(b) Since on or about 2000 until on or about February 1, 2008, Local 78 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Milpitas Agreement, was effective by its terms for the period October 1, 2007 to September 30, 2010.

(c) On or about February 1, 2008, Local 78 merged with Local 853 and, thereafter, Local 78 ceased to exist. Since on or about February 1, 2008, there was, and has been, a substantial continuity of representation between the pre-merger Local 78 and the post-merger Local 853, and, therefore, Local 853 is the successor to Local 78.

(d) Beginning on or about February 1, 2008, Local 853 was the designated exclusive collective-bargaining representative of the employees in the Milpitas Unit, and

since that date until on or about September 30, 2010, Local 853 was voluntarily recognized as such representative by Respondent. Such recognition was embodied in the Milpitas Agreement.

(e) The employees in the Milpitas Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(f) At all times from at least on or about 2000, until on or about February 1, 2008, based on Section 9(a) of the Act, Local 78 was the exclusive collective-bargaining representative of the Milpitas Unit.

(g) At all times from at least on or about February 1, 2008, until on or about September 30, 2010, based on Section 9(a) of the Act, Local 853 was the exclusive collective-bargaining representative of the Milpitas Unit.

9.

On or about July 27, 2010, Respondent withdrew recognition of Local 439 as the exclusive collective-bargaining representative of the employees in the Stockton Unit, and since that date Respondent has refused, and continues to refuse, to recognize or bargain with Local 439 as the collective-bargaining representative of the employees in the Stockton Unit.

Respondent withdrew recognition of Local 439 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 439 no longer retained majority support among the employees in the Stockton Unit. Respondent does

not contend that a good faith impasse had been reached in bargaining for a successor agreement.

10.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 490, and thereby of Local 315, the successor to Local 490, as the exclusive collective-bargaining representative of the employees in the Richmond Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 315 as the collective-bargaining representative of the employees in the Richmond Unit.

Respondent withdrew recognition of Local 315 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 315 no longer retained majority support among the employees in the Richmond Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

11.

On or about July 26, 2010, Respondent withdrew recognition, effective September 30, 2010, of Local 853 as the exclusive collective-bargaining representative of the employees in the Milpitas Unit, and since September 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 853 as the collective-bargaining representative of the employees in the Milpitas Unit.

Respondent withdrew recognition of Local 853 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 853 no longer retained majority support among the employees in the Milpitas Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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12.

On February 23, 2011, Local 150 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date.

13.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in Sacramento, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or

provided services valued in excess of \$50,000 directly to customers located outside the State of California.

14.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

15.

At all times material herein, Local 150 has been a labor organization within the meaning of Section 2(5) of the Act.

16.

At all times material herein, Local 150 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

17.

(a) Beginning on or about 1965, Local 150 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Sacramento, California branch, herein called the Sacramento Unit:

All full-time and regular part-time employees employed by Respondent out of its Sacramento facility as custodians, drivers, and guards; excluding all other employees, office and clerical employees, watchmen, and supervisors as defined in the Act.

(b) Since at least 1965, until on or about November 30, 2010, Local 150 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining

agreements, the most recent of which, herein called the Sacramento Agreement, was effective by its terms for the period December 1, 2006 to November 30, 2010.

(c) The employees in the Sacramento Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1965, until on or about November 30, 2010, based on Section 9(a) of the Act, Local 150 was the exclusive collective-bargaining representative of the Sacramento Unit.

18.

On or about September 27, 2010, Respondent withdrew recognition, effective November 30, 2010, of Local 150 as the exclusive collective-bargaining representative of the employees in the Sacramento Unit, and since November 30, 2010, Respondent has refused, and continues to refuse, to recognize or bargain with Local 150 as the collective-bargaining representative of the employees in the Sacramento Unit.

Respondent withdrew recognition of Local 150 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 150 no longer retained majority support among the employees in the Sacramento Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

19.

On January 20, 2011, Local 542 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or about the same date. Local 542 filed a first-amended charge on March 8, 2011, and a copy thereof was served on Respondent by mail on or about March 9, 2011.

20.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in San Diego, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

21.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

22.

At all times material herein, Local 542 has been a labor organization within the meaning of Section 2(5) of the Act.

23.

At all times material herein, Local 542 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

24.

(a) Beginning on or about 1963, Local 542 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its San Diego, California branch, herein called the San Diego Unit:

All full-time and regular part-time employees employed by Respondent out of its San Diego branch as custodians, drivers, and guards; excluding all other employees, vault employees, turret employees, office clerical employees, professional employees and supervisors as defined in the Act.

(b) Since at least 1963, until on or about February 28, 2011, Local 542 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the San Diego Agreement, was effective by its terms for the period March 1, 2010 to February 28, 2011.

(c) The employees in the San Diego Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1963, until on or about February 28, 2011, based on Section 9(a) of the Act, Local 542 was the exclusive collective-bargaining representative of the San Diego Unit.

25.

On or about December 20, 2010, Respondent withdrew recognition, effective February 28, 2011, of Local 542 as the exclusive collective-bargaining representative of the employees in the San Diego Unit, and since February 28, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 542 as the collective-bargaining representative of the employees in the San Diego Unit.

Respondent withdrew recognition of Local 542 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 542 no longer retained majority support among the employees in the San Diego Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

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26.

On January 20, 2011, Local 396 filed a charge alleging that Respondent has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, and a copy thereof was served on Respondent by mail on or

about January 25, 2011. Local 396 filed a first-amended charge on March 8, 2011, and a copy thereof was served on Respondent by mail on or about March 9, 2011.

27.

(a) At all times material herein, Respondent, a Delaware corporation with corporate headquarters in Houston, Texas, and with a branch office and place of business in Los Angeles, California, has been engaged in providing nationwide cash handling services, including secure transport by armored vehicle, cash processing, and outsourced vault services.

(b) During the past twelve months, Respondent, in the course and conduct of its business operations described in paragraph 2(a) above, sold and shipped goods or provided services valued in excess of \$50,000 directly to customers located outside the State of California.

28.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

29.

At all times material herein, Local 396 has been a labor organization within the meaning of Section 2(5) of the Act.

30.

At all times material herein, Local 396 has been a labor organization which admits to membership individuals employed as guards within the meaning of Section 9(b)(3) of the Act and employees other than guards.

31.

(a) Beginning on or about 1981, Local 396 was the designated exclusive collective-bargaining representative of the following-described employees of Respondent employed at its Los Angeles, California branch, herein called the Los Angeles Unit:

All regular full-time and part-time custodians, drivers, guards, and vault employees working out of the Respondent's City of Los Angeles, California (Pico) branch.

(b) Since at least 1981, until on or about January 31, 2011, Local 396 was voluntarily recognized as the designated exclusive collective-bargaining representative by Respondent. Such recognition was embodied in successive collective-bargaining agreements, the most recent of which, herein called the Los Angeles Agreement, was effective by its terms for the period February 1, 2010 to January 31, 2011.

(c) The employees in the Los Angeles Unit are all guards within the meaning of Section 9(b)(3) of the Act.

(d) At all times from at least 1981, until on or about January 31, 2011, based on Section 9(a) of the Act, Local 396 was the exclusive collective-bargaining representative of the Los Angeles Unit.

32.

On or about November 23, 2010, Respondent withdrew recognition, effective January 31, 2011, of Local 396 as the exclusive collective-bargaining representative of the employees in the Los Angeles Unit, and since January 31, 2011, Respondent has refused, and continues to refuse, to recognize or bargain with Local 396 as the collective-bargaining representative of the employees in the Los Angeles Unit.

Respondent withdrew recognition of Local 396 based on Board precedent that permits withdrawal of recognition of a labor organization that represents both guards and non-guards upon the expiration of the relevant collective-bargaining agreement. At the time it withdrew recognition, Respondent had no evidence that Local 396 no longer retained majority support among the employees in the Los Angeles Unit. Respondent does not contend that a good faith impasse had been reached in bargaining for a successor agreement.

#### STATEMENT OF THE ISSUE PRESENTED

1.

The legal issue presented by this case is whether an employer that has voluntarily recognized a labor organization that represents both guards and non-guards as the designated exclusive collective-bargaining representative of a unit of the employer's guards, and has entered into one or more collective-bargaining agreements with such labor organization covering such unit, violates Section 8(a)(5) of the Act when it withdraws recognition from that labor organization upon expiration of the collective-bargaining agreement because that labor organization is a mixed-guard labor organization that is not certifiable by the Board under Section 9(b)(3).

2.

Respondent does not contend that it was privileged to withdraw recognition from any of the respective labor organizations in the six units at issue herein because of any of the following reasons:

- (a) A good faith impasse had been reached in bargaining for a successor agreement; and/or

(b) Respondent had objective evidence that the respective labor organization no longer enjoyed majority support among the employees in the unit.

3.

Respondent, in stipulating to the term “designated” herein, does not stipulate that Local 439, Local 315, Local 853, Local 150, Local 542, and/or Local 396 are certifiable under Section 9(b)(3) of the Act as representatives of Respondent’s employees in, respectively, the Stockton Unit, the Richmond Unit, the Milpitas Unit, the Sacramento Unit, the San Diego Unit, and the Los Angeles Unit.

4.

Respondent, in stipulating to the phrase “based on Section 9(a) of the Act” herein, does not stipulate that Local 439, Local 315, Local 853, Local 150, Local 542, and/or Local 396 are certifiable under Section 9(b)(3) of the Act as representatives of Respondent’s employees in, respectively, the Stockton Unit, the Richmond Unit, the Milpitas Unit, the Sacramento Unit, the San Diego Unit, and the Los Angeles Unit.

5.

All parties herein agree that all essential relevant and material evidence necessary to dispose of the issues raised by the pleadings is contained in this Stipulation and the exhibits attached to the Joint Motion to Submit Stipulated Record to the Administrative Law Judge. All parties further admit that the documents contained in said exhibits are authentic and that the recipient received them on or about the date on the face of the documents.

6.

This Stipulation is made without prejudice to any objection that any party may have as to the relevancy of any facts stated herein.

LOOMIS ARMORED US, INC.

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 439,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 315,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL UNION NO. 853,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25316)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

TEAMSTERS LOCAL 150, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
CHANGE TO WIN COALITION  
(with respect to the factual allegations related to Case 32-CA-25708)

BY: \_\_\_\_\_

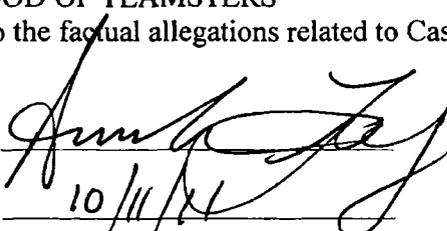
DATE: \_\_\_\_\_

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS, LOCAL NO. 542, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
(with respect to the factual allegations related to Case 32-CA-25709)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

PACKAGE AND GENERAL UTILITY  
DRIVERS, LOCAL 396, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
(with respect to the factual allegations related to Case 32-CA-25727)

BY:  \_\_\_\_\_

DATE: 10/11/21 \_\_\_\_\_

COUNSEL FOR THE GENERAL COUNSEL

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

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OAKLAND, CA.

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 32

LOOMIS ARMORED US, INC.

and

TEAMSTERS LOCAL UNION NO. 439; TEAMSTERS  
LOCAL UNION NO. 315; TEAMSTERS LOCAL UNION  
NO. 853; TEAMSTERS LOCAL UNION NO. 150;  
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN  
AND HELPERS LOCAL NO. 542; and PACKAGE AND  
GENERAL UTILITY DRIVERS LOCAL NO. 396

Case(s) 32-CA-25316  
32-CA-25708  
32-CA-25709  
32-CA-25727

**AFFIDAVIT OF SERVICE OF COUNSEL FOR THE ACTING GENERAL COUNSEL'S BRIEF IN  
SUPPORT OF EXCEPTIONS TO THE DECISION AND RECOMMENDED ORDER OF THE  
ADMINISTRATIVE LAW JUDGE**

I, the undersigned employee of the National Labor Relations Board, state under oath that on **February 7, 2012**, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

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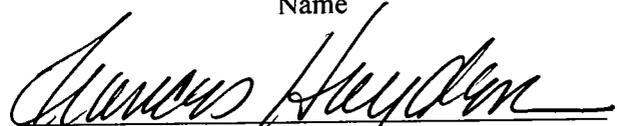
Les Heltzer  
Executive Secretary  
1099 14<sup>th</sup> Street, N.W., Suite 11610  
Washington, Dc 20005  
**E-File**

February 7, 2012

Date

Frances Hayden, Designated Agent of NLRB

Name

  
Signature