

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21**

**CALIFORNIA CARTAGE COMPANY, LLC AND
ORIENT TALLY COMPANY, INC., A SINGLE
EMPLOYER, AND CORE EMPLOYEE
MANAGEMENT, INC., A JOINT EMPLOYER**

Employer

and

Case 21-RC-188813

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS**

Petitioner

DECISION AND DIRECTION OF ELECTION

On December 8, 2016, the Region conducted a representation hearing in this case. Upon commencement of the hearing, the parties reached stipulations covering all litigable issues. The sole issues on which the parties were unable to agree were the time and place of the election. The hearing officer properly concluded that the determination of the time and place of the election, like the date of an election, is a matter for administrative decision by the Regional Director. *Halliburton Services*, 265 NLRB 1154 (1982); *Manchester Knitted Fashions*, 108 NLRB 1366 (1954). Accordingly, the hearing officer permitted the parties to put on evidence solely to assist the Regional Director in making this determination.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The parties stipulated, and I find, that California Cartage Company, LLC and Orient Tally Company, Inc. are a single employer (together, "Cal Cartage/Orient Tally").
3. The parties stipulated, and I find, that Cal Cartage/Orient Tally is a joint employer with Core Employee Management, Inc. of Core's employees who work at California Cartage Company, LLC's facility located at 2401 East Pacific Coast Highway, Wilmington, CA 90744.
4. The Employer is an employer engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹

¹ The parties stipulated: California Cartage Company, LLC and Orient Tally Company, Inc., a single employer, is a California corporation, with a principal place of business located at 2931 Redondo Avenue, Long Beach, California, and a facility located at 2401 East Pacific Coast Highway, Wilmington, California, is engaged in the business of warehousing, transloading, and distribution. During the past 12 months, a representative period, the single employer

California Cartage Company, LLC and
Orient Tally Company, Inc., a single
employer, and Core Employee Management,
Inc., a joint employer
Case 21-RC-188813

5. The Petitioner, International Brotherhood of Teamsters, is a labor organization as defined in Section 2(5) of the Act, and claims to represent certain employees of the Employer.
6. There is no recent history of collective bargaining between the Petitioner and the Employer.
7. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
8. As stipulated by the parties, the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All full-time, regular part-time, and temporary Lumpers, Forklift Drivers, Chalkers, Mechanics, Yard Goats, Equipment Control employees, and Maintenance Workers jointly employed by California Cartage Company, LLC/Orient Tally Company, Inc., and Core Employee Management, Inc., at California Cartage Company, LLC's facility located at 2401 East Pacific Coast Highway, Wilmington, CA 90744; and

All full-time, regular part-time, and temporary Lumpers, Forklift Drivers, Chalkers, Mechanics, Yard Goats, and Maintenance Workers employed solely by California Cartage Company, LLC/Orient Tally Company, Inc. at California Cartage Company, LLC's facility located at 2401 East Pacific Coast Highway, Wilmington, CA 90744;

EXCLUDED: All other employees, office clerical employees, professional employees, managerial employees, guards, and supervisors as defined in the Act.

derived gross revenues in excess of \$500,000 and performed services valued in excess of \$50,000 directly to customers outside the State of California.

Core Employee Management, Inc., a California corporation, with a principal place of business located at 20767 South Avalon Boulevard, Carson, California, and a branch location located at 5230 Benito Street, Montclair, California, is engaged in the business of providing temporary staffing services to companies. During the past 12 months, a representative period, Core Employee Management, Inc., provided services valued in excess of \$50,000 to California Cartage Company, LLC, an enterprise within the State of California, which in turn performed services valued in excess of \$50,000 directly to customers outside the State of California. The parties further stipulated that California Cartage Company, LLC and Orient Tally Company, Inc. is a joint employer with Core Employee Management, Inc.

California Cartage Company, LLC and
Orient Tally Company, Inc., a single
employer, and Core Employee Management,
Inc., a joint employer
Case 21-RC-188813

OTHERS PERMITTED TO VOTE: At this time, no decision has been made regarding whether Leads are included in, or excluded from, the bargaining unit, and individuals in those classifications may vote in the election but their ballots shall be challenged since their eligibility has not been resolved. The eligibility or inclusion of these individuals will be resolved, if necessary, following the election.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by INTERNATIONAL BROTHERHOOD OF TEAMSTERS.

A. Election Details

The election will be held on **December 22, 2016, from 7:00 a.m. to 11:00 a.m. and 4:00 p.m. to 7:00 p.m. at Warehouse 13, Bay 4, at California Cartage Company, LLC's facility located at 2401 East Pacific Coast Highway, Wilmington, CA 90744.**

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **December 4, 2016**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classifications whose eligibility remains unresolved as specified above and in the Notice of Election.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

California Cartage Company, LLC and
Orient Tally Company, Inc., a single
employer, and Core Employee Management,
Inc., a joint employer
Case 21-RC-188813

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters. The Employer must also include in a separate section of that list the same information for those individuals who, according to this direction of election, will be permitted to vote subject to challenge.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Tuesday, December 13, 2016**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election in English and Spanish in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be

California Cartage Company, LLC and
Orient Tally Company, Inc., a single
employer, and Core Employee Management,
Inc., a joint employer
Case 21-RC-188813

posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: December 9, 2016



WILLIAM M. PATE JR
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 21
888 S Figueroa St Fl 9
Los Angeles, CA 90017-5449