

APPENDIX: LIST OF EXHIBITS

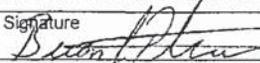
Exhibit 1	Petition filed June 22, 2015
Exhibit 2	Respondent Green JobWorks, LLC Statement of Position
Exhibit 3	ACECO, LLC Statement of Position
Exhibit 4	Region 5 Decision and Order, dated October 21, 2015
Exhibit 5	Union Request for Review, dated November 4, 2015
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Exhibit 8	Order Revoking Certification of Representative, dated December 17, 2015
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Exhibit 10	Respondent Request for Review, dated January 5, 2016
Exhibit 11	Union letter to Respondent requesting bargaining, dated January 8, 2016
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Exhibit 16	Board Order, dated March 8, 2016
Exhibit 17	Union request to withdraw Request for Review, dated September 1, 2017

Exhibit 18	Board letter granting withdrawal of Union Request for Review, dated September 7, 2017
Exhibit 19	Union e-mail requesting bargaining, dated October 4, 2017
Exhibit 20	Respondent e-mail refusing to bargain, dated October 16, 2017
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Exhibit 22	Service of Complaint and Notice of Hearing, dated October 25, 2017
Exhibit 23	Respondent Answer to Complaint and Notice of hearing, dated November 7, 2017
Exhibit 24	Service of Charge 05-CA-195809, dated March 27, 2017
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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
RC PETITION

DO NOT WRITE IN THIS SPACE	
Case No. 5-RC-154596	Date Filed 6/22/15

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlr.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.			
2a. Name of Employer Green JobWorks, LLC/ACECO, LLC (joint employer)		2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code) 1531 S. Edgewood St., Ste. P, Baltimore MD 21227/901 Stoddard Pl., Silver Spring, MD 2919	
3a. Employer Representative - Name and Title Larry Lopez/Michael Citren		3b. Address (If same as 2b - state same) same	
3c. Tel. No. 410.864.6194/301.588.0707	3d. Cell No.	3e. Fax No. 301.588.2541 (ACECO)	3f. E-Mail Address llopez@greenjobworks.com / mcitren@acecoworld.com
4a. Type of Establishment (Factory, mine, wholesaler, etc.) Construction Site		4b. Principal product or service Demolition construction services	5a. City and State where unit is located: DC & Montgomery County, MD
5b. Description of Unit Involved Included: All full- and regular part-time laborers, including demolition and asbestos removal workers employed by the joint employer Excluded: office clericals, confidential and management employees, guards, and supervisors under the Act			6a. No. of Employees in Unit: appr. 35 6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Check One: <input type="checkbox"/> 7a. Request for recognition as Bargaining Representative was made on (Date) _____ and Employer declined recognition on or about _____ (Date) (If no reply received, so state). <input type="checkbox"/> 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.			
8a. Name of Recognized or Certified Bargaining Agent (if none, so state). NONE		8b. Address	
8c. Tel No.	8d. Cell No.	8e. Fax No.	8f. E-Mail Address
8g. Affiliation, if any		8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)
9. Is there now a strike or picketing at the Employer's establishment(s) involved? <u>NO</u> If so, approximately how many employees are participating? _____ (Name of labor organization) _____, has picketed the Employer since (Month, Day, Year) _____			
10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state) NONE			
10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.
		10e. Fax No.	10f. E-Mail Address
11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.		11a. Election Type: <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail	
11b. Election Date(s): July 10, 2015	11c. Election Time(s): three weeks	11d. Election Location(s): Mail Ballot	
12a. Full Name of Petitioner (including local name and number) Construction and Master Laborers/ Local Union No. 11		12b. Address (street and number, city, state, and ZIP code) 3680 Wheeler Ave., Unit 100, Alexandria, VA 22304	
12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state) Laborers' Internaional Union of North America			
12d. Tel No. 703.504.6166	12e. Cell No.	12f. Fax No. 703.504.6168	12g. E-Mail Address
13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.			
13a. Name and Title Brian Petruska, Counsel		13b. Address (street and number, city, state, and ZIP code) 11951 Freedom Drive, Rm. 310, Reston, VA 20190	
13c. Tel No. 703.860.4194	13d. Cell No.	13e. Fax No. 703.860.1865	13f. E-Mail Address bpetruska@maliuna.org
I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.			
Name (Print) Brian Petruska	Signature 	Title Counsel	Date 6.22.2015

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

FORM NLRB-505 (4-15)

UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE	
Case No. 05-RC-154596	Date Filed June 22, 2015

INSTRUCTIONS: Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing. Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.

1a. Full name of party filing Statement of Position: Green Job Works, LLC 1c. Business Phone: 410-864-6194 1e. Fax No.: 410-878-0273

1b. Address (Street and number, city, state, and ZIP code): 1531 S. Edge wood Street, SNE P BALTIMORE, MD 21227 1d. Cell No.: 1f. e-Mail Address

2. Do you agree that the NLRB has jurisdiction over the Employer in this case? Yes No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

3. Do you agree that the proposed unit is appropriate? Yes No (If not, answer 3a and 3b.)

a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.) See attached Response

b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit. Added: See attached Response + list of employees to be added Excluded: Clerical, Supervisors, all other employees

4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.

5. Is there a bar to conducting an election in this case? Yes No If yes, state the basis for your position.

6. Describe all other issues you intend to raise at the pre-election hearing.

The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015. A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit. (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)

State your position with respect to the details of any election that may be conducted in this matter. 8a. Type: Manual Mail Mixed Manual/Mail

Bb. Date(s): FREDAV 8c. Time(s): 8d. Location(s):

8e. Eligibility Period (e.g. special eligibility formula): DAILY 8f. Last Payroll Period Ending Date: 8g. Length of payroll period: Weekly Biweekly Other (specify length)

9. Representative who will accept service of all papers for purposes of the representation proceeding

9a. Full name and title of authorized representative: Patrick J Stewart 9b. Signature of authorized representative: [Signature] 9c. Date: 6/30/15

9d. Address (Street and number, city, state, and ZIP code): P.O. Box 6420 Annapolis MD 21401 9e. e-Mail Address:

9f. Business Phone No.: 410-934-3222 9g. Fax No.: 9h. Cell No.:

WILLFUL FALSE STATEMENTS ON THIS STATEMENT OF POSITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for this information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.60(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

RESPONSE TO ITEM 3 BY GREEN JOBWORKS, LLC

A. The Petition should be dismissed because:

1. ACECO, LLC and Green JobWorks, LLC are not joint employers because ACECO does not share or co-determine matters essential to the employment relationship of Green JobWorks employees in matters such as recruiting, hiring, drug testing, assignment, supervision, and direction of work, change of work location, and discipline and discharge, supervision and direction.
2. The appropriate bargaining unit bargaining unit is all laborers and asbestos removal employees who work for Green JobWorks, LLC at all work locations in the Baltimore/D.C. Metro area and not just those who performed work at ACECO job sites in the District of Columbia and Montgomery County as proposed by the union in the Petition. Those employees petitioned-for by the Union do not share a traditional community of interest separate and distinct from the other Green JobWorks employees who work at its other locations. The unit petitioned for by the Union at the locations sought do not have distinct terms and conditions of employment, and they regularly interchange with other Green JobWorks employees depending on locations, work to be performed and their availability. All of Green JobWorks employees have common supervision and other terms and conditions of employment (e.g. wages, benefits, work rules, etc.).

B. The Employer herein adopts and incorporates by reference the issues presented by ACECO, LLC in its position statement.

GJW WORKERS ON ACECO JOBSITES**Week of 6/15/2015 - 6/21/2015**

	EE Name		Classification
1	Alvarez-Martinez	Daniel	Abatement Leader
2	Benavides	Edwin	Demolition
3	Blanco De Leon	Reyna	Abatement Leader
4	Bojorquez	Brenda	Abatement
5	Campos	Arturo	Abatement
6	Castillo Gomez	Jose	Demolition
7	Corrales	Julieth	Abatement
8	Coyoy	Jose	Demolition
9	Cruz	Daniel	Abatement Leader
10	Deale	Bobby	Demolition
11	DeLeon	Gladys	Abatement
12	Diaz-Monzon	Sandra	Abatement
13	Duvon	Marcos	Demolition
14	Escobar	Israel	Demolition
15	Galo	Carlos	Abatement
16	Galo-Zamorra	Nelson	Abatement
17	Gomez-Escobar	Juan	Demolition
18	Hammond	Darrell	Demolition
19	Jackson	Anthony	Demolition
20	Leal-Paredes	Aaron	Abatement
21	Lemus	Rosa	Abatement
22	Lopez	Mario	Demolition
23	Lopez-Alvarenga	Arnulfo	Demolition
24	Lopez-Pena	Noe	Demolition Leader
25	Marroquin	Alma	Demolition
26	Martinez	Cristian	Abatement
27	Mejia-Ramirez	Wilfredo	Demolition
28	Mendez	Natalia	Abatement
29	Morales-Luna	Gonzalo	Demolition
30	Najera	Lubia	Abatement
31	Navarrete	Oscar	Abatement
32	Ortiz-Castro	Alba	Demolition
33	Ramirez	Jose	Demolition
34	Reynos-Villagran	Gedis	Abatement
35	Rivas	Jose	Abatement
36	Rodriguez	Everildo	Abatement
37	Rodriguez	William	Abatement
38	Ruano	Marvin	Demolition Leader
39	Tobar	Angel	Demolition
40	Toledo-Azanon	Elvis	Abatement

Exhibit 2

1:01 PM
06/26/15

Green JobWorks LLC
Demo(500) pay rate next to EE name
June 15 - 21, 2015

41	Torres	Irma	Abatement
42	Valdez	Manatha	Abatement
43	Valle	Wilman	Abatement Leader
44	Ventura	Eugenia	Demolition Leader
45	Zuniga	Gina	Demolition

Green JobWorks Additional Employees

	Last Name		First Name	h - D&Q	Work Location
1	Acevedo		Eduardo		Various
2	Aguilar		Cesar		Various
3	Aguilar		Orlando		Various
4	Aguilera		Gabriel		Various
5	Aguirre		Carla		Various
6	Aleman		Victor		Various
7	Alfaro		Alexis		Various
8	Alfaro		Jose		Various
9					
10	Alvarado	Al	Elmer		Various
11	Alvarenga		Rolando		Various
12	Alvarez	Martinez	Daniel		Various
13	Alvarez		Maria		Various
14	Amaya		Maria		Various
15	Angel		Maria		Various
16	Aporcio		Walter		Various
17	Aquino		Eswin		Various
18	Argueta		Saul		Various
19	Argueta		Rosa		Various
20	Armstrong		Booker		Various
21	Avelar		Pastor		Various
22	Avila		Armando		Various
23	Ayala		Mauricio		Various
24	Ayala		Hector		Various
25	Azurdia		Norma		Various
26	Balbuena		Markeith		Various
27	Balcarcel		Abelino		Various
28	Baldwin		Jason		Various
29	Banega		Rodolfo		Various
30	Barillas		Luz		Various
31	Barnes		Delvone		Various
32	Barrientos		Amilcar		Various
33	Barrientos		Lester		Various
34	Barrientos		Francisco		Various
35	Barrillas		Rene		Various
36	Barrillas		Ismael		Various
37	Baten		Griselda		Various
38	Benitez	Fun.	Mario		Various
39	Blanco	De	Reyna		Various
40	Blanco		Jose		Various
41	Bojorquez		Brenda		Various
42	Bolling		Michael		Various
43	Bonilla		Carlos		Various

Exhibit 2

44	Booker		Robert						Various
45	Booker		Gregory						Various
46	Boquin		Olga						Various
47	Bradds		Jason						Various
48	Bradds		Casey						Various
49	Bryant		Kevin						Various
50	Burgas	Reyes	Zuleima						Various
51	Cabrera		Manrique						Various
52	Caceres		Brandy						Various
53	Callaway		Eric						Various
54	Calle	Erik	Geovany						Various
55	Calvac		Francisco						Various
56	Calvac		Teresa						Various
57	Campos		Arturo						Various
58	Canizales		Francisco						Various
59	Carrillo		Reyneris						Various
60	Carrillo		Carlos						Various
61	Cartwright		Eugene						Various
62	Casares		Santos						Various
63	Casco		Nelson						Various
64	Castaneda		Nataniel						Various
65	Castaneda		Kelvin						Various
66	Castaneda		Elizabeth						Various
67	Casteneda		Rudy						Various
68	Castillo		Maria						Various
69	Castro		Maria						Various
70	Catinac	Chaj	Manuel						Various
71	Chaj		Edwin						Various
72	Chirinos		Ilsa						Various
73	Chirinos		Rolando						Various
74	Cornejo	Pineda	Rosa						Various
75	Corrales		Julieth						Various
76	Cortez		Gustavo						Various
77	Corvera		Manuel						Various
78	Cos	DeJesus	Baudilia						Various
79	Cruz		Daniel						Various
80	Cruz		Nimia						Various
81	Cruz		Santos						Various
82	DeLeon		Gladys						Various
83	Diaz		Nahun						Various
84	Diaz		Pedro						Various
85	Donohue		Jayson						Various
86	Duenas		Andres						Various
87	Duvon		Marcos						Various
88	Escobar		Isai						Various
89	Escobar		Francisco						Various

Exhibit 2

90	Escobar		Rosalba					Various
91	Escobar		Deysi					Various
92	Escobar		Jose					Various
93	Escobar		Ilmer					Various
94	Escobar		Israel					Various
95	Estrada		Ender					Various
96	Estrada		Marvin					Various
97	Evans		Michael					Various
98	Evans		Frederick					Various
99	Flores		Saul					Various
100	Flores		Juan					Various
101	Flores		Joaquin					Various
102	Flores	Rodrig.	Jose					Various
103	Florez		Nery					Various
104	Florian		Ramiro					Various
105	Fowlkes		Silvester					Various
106	Francisco	Perez	Jose					Various
107	Fuentes		Luis					Various
108	Fuentes		Luis					Various
109	Fuentes		Carlos					Various
110	Galo	Argueta	Wilfredo					Various
111	Galo	Zamorra	Nelson					Various
112	Galo		Carlos					Various
113	Galo	Mendez	Pablo					Various
114	Garcia		Nelson					Various
115	Garcia		Elmer					Various
116	Garcia		Henry					Various
117	Garcia		Santos					Various
118	Garcia	Vicente	Everto					Various
119	Garcia	Flores	Noemi					Various
120	Garcia		Omar					Various
121	Gaskins		Francisco					Various
122	Giron		Pedro					Various
123	Giron		Juan					Various
124	Glenn		Michael					Various
125	Gomez	Escobar	Juan					Various
126	Gomez		Gerson					Various
127	Gomez		Imelda					Various
128	Gonzalez		Ronald					Various
129	Gonzalez		Jose					Various
130	Goodman		James					Various
131	Granados		Nicolas					Various
132	Granados		Jose					Various
133	Graves		Curtis					Various
134	Guardado		Jorge					Various
135	Guerra		Adolfo					Various

Exhibit 2

136	Guevara		Victor						Various
137	Gustavo	Martinez	Carlos						Various
138	Gutierrez		Jessica						Various
139									
140	Guzman		Santos						Various
141	Guzman		Jesus						Various
142	Guzman		Miguel						Various
143	Hammond		Darrell						Various
144	Hands		Zachary						Various
145	Harvin		Dante						Various
146	Hercules		Jose						Various
147	Hernandez		Joel						Various
148	Hernandez		Eddy						Various
149	Hernandez		Erwin						Various
150	Hernandez		Carlos						Various
151	Hernandez		Ramiro						Various
152	Hernandez	Garcia	Jorge						Various
153	Hernandez		Xiomara						Various
154	Herring		Edward						Various
155	Hill		Warren						Various
156	Hosinger		Michael						Various
157	Hughes		James						Various
158	Iraheta		Victor						Various
159	Iyalekhue		Maxwell						Various
160	Jimenez		Josea						Various
161	Johnson		Reginald						Various
162	Jones		Raymond						Various
163	Juarez		Rosa						Various
164	Juarez		Wendy						Various
165	Kamden		Calvin						Various
166	King		John						Various
167	Knight		Lorenzo						Various
168	Lainez	Cruz	Jose						Various
169	Lemus		Rosa						Various
170	Lobato		Jose						Various
171	Lopez	Alvarenga	Arnulfo						Various
172	Lopez		Mario						Various
173	Lopez	Pena	Noe						Various
174	Lopez		Jonny						Various
175	Lopez	Sis	Santos						Various
176	Lopez		Hector						Various
177	Lopez		Esbin						Various
178	Lopez		Eda						Various
179	Lopez		Eswin						Various
180	Lopez	Fajardo	Reina						Various
181	Lopez		Elsa						Various

Exhibit 2



182	Lopez		Humberto					Various
183	Lopez		Francisco					Various
184	Lopez		Edwin					Various
185	Lopez	Choc	Nelson					Various
186	Lopez	Gomez	Carlos					Various
187	Lopez		Donis					Various
188	Luque	Reyes	Olman					Various
189	Maldonado		Santiago					Various
190	Maldonado		David					Various
191	Marquina		Jose					Various
192	Marroquin		Alma					Various
193	Marroquin		Josue					Various
194	Martinez		Carlos					Various
195	Martinez	Garcia	Rigoberto					Various
196	Martinez		Wilber					Various
197	Martinez		Cristian					Various
198	Martinez		Rudy					Various
199	Martinez		Jesus					Various
200	Martinez		Jorge					Various
201	Martinez		Rigoberto					Various
202	Martinez		Alvaro					Various
203	Martinez		Wilfredo					Various
204	Martinez		Teresa					Various
205	Martinez		Fernando					Various
206	Martinez		Inocencio					Various
207	Martinez		Ninfa					Various
208	Martinez		Santos					Various
209	Martinez		Carlos					Various
210	Martinez		Reyna					Various
211	Mason		Michael					Various
212	May		James					Various
213	McClaude		Francis					Various
214	Medina		Karina					Various
215	Medrano		Wilmer					Various
216	Medrano		Jose					Various
217	Mejia		Disney					Various
218	Melendez		Francisco					Various
219	Melo		Juan					Various
220	Mendez		Natalia					Various
221	Mendez		Cintiha					Various
222	Mendoza	Alvarenga	Wilmer					Various
223	Mendoza		Gracy					Various
224	Menjivar		Brenda					Various
225	Mercado		Antonio					Various
226	Milian		Otto					Various
227	Molina		Orlenda					Various

Exhibit 2



228	Mondragon		Wilmer						Various
229	Mondragon		Ortilio						Various
230	Mondragon		Ever						Various
231	Mondragon		Rosma						Various
232	Morales		Oscar						Various
233	Morales		Gonzalo						Various
234	Moroz		Eric						Various
235	Mulbah		Sumo						Various
236	Muldrow		William						Various
237	Najera		Lubia						Various
238	Navarrete		Oscar						Various
239	Nelson		Keith						Various
240	Njike		Diffang						Various
241	Obase		Herold						Various
242	Ochoa		Daniel						Various
243	Olayo		Angel						Various
244	Oliva		Enrique						Various
245	Oliva	Zamora	Carmen						Various
246	Oliva		Luz						Various
247	Ordonez		Wilson						Various
248	Ordonez		Florencio						Various
249	Ordonez		Mayra						Various
250	Orellana		Saul						Various
251	Orellana		Donis						Various
252	Orellana		Meisen						Various
253	Ortega	Marroquin	Jose						Various
254	Ortiz		Eduardo						Various
255	Ortiz	Castro	Alba						Various
256	Ortiz		Glenda						Various
257	Osorto		Claudia						Various
258	Padilla		Carlos						Various
259	Padron		Luis						Various
260	Palencia		Juan						Various
261	Palma		Paula						Various
262	Palma		Sonia						Various
263	Penate		Cecilia						Various
264	Perez		Roberto						Various
265	Perez		David						Various
266	Perez		Sara						Various
267	Perez		Rodolfo						Various
268	Perez		Pedro						Various
269	Perez		Fernando						Various
270	Perez		Maciel						Various
271	Perez		Alma						Various
272	Perez		Cesar						Various
273	Perez		Adalberto						Various

Exhibit 2

~~Green JobWorks~~
~~of low employees~~
15

274	Philips		Daniel					Various
275	Pinckney		Kevin					Various
276	Pineda	Chavez	Carlos					Various
277	Pineda		Gloribel					Various
278	Pineda		Ivis					Various
279	Portillo		Dublas					Various
280	Queen		Glenn					Various
281	Quintanilla		Antonio					Various
282	Rabanales		Sandy					Various
283	Rabanales		Milton					Various
284	Ramirez		Jose					Various
285	Ramirez		Glenda					Various
286	Ramirez		Leonardo					Various
287	Ramirez		Leticia					Various
288	Ramos		Henry					Various
289	Ramos		Yoryina					Various
290	Raymundo		Reyna					Various
291	Raymundo		Yoselin					Various
292	Recinos		Ismael					Various
293	Reyes		Francisco					Various
294	Reyes		Eulices					Various
295	Reyes		Mario					Various
296	Reyes	Oliva	Karla					Various
297	Reyes		Rigoberto					Various
298	Reyes		Elizabeth					Various
299	Reyes		Nuvia					Various
300	Reyes		Jacson					Various
301	Reynos	Villagran	Gedis					Various
302	Ringgold		Earl					Various
303	Rivas		Jose					Various
304	Rivera		Jose					Various
305	Rivera		Alfredo					Various
306	Rivera		Edgar					Various
307	Rivera		Herver					Various
308	Rivera		Francisco					Various
309	Rivera		Victor					Various
310	Rodriguez		Everildo					Various
311	Rodriguez		William					Various
312	Rodriguez		Edgar					Various
313	Rodriguez		Martha					Various
314	Rogel		Rosa					Various
315	Rojas	Flores	Flora					Various
316	Romero	Hernandez	Erbin					Various
317	Rosales		Raquel					Various
318	Ross		Gabriel					Various
319	Ruano		Marvin					Various

Exhibit 2

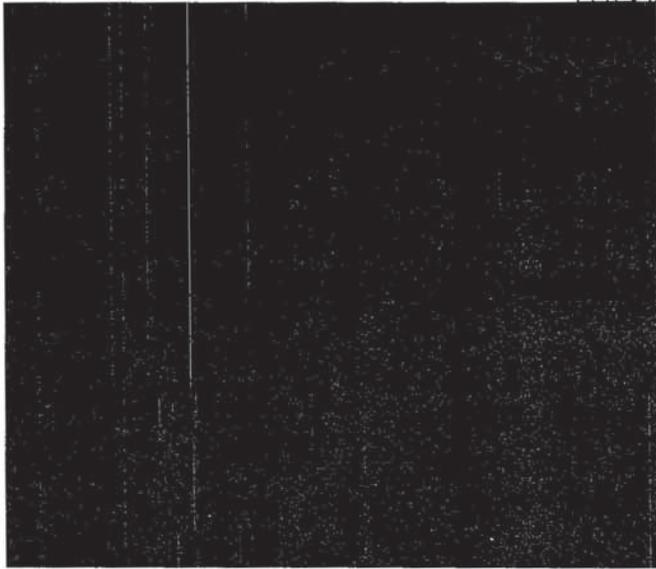


320	Sagastume		Jose						Various
321	Sagastume		Enoc						Various
322	Salazar		Andres						Various
323	Salazar		Oscar						Various
324	Sales		Osmin						Various
325	Salinas		Neris						Various
326	Salmeron		Jose						Various
327	Sanchez		Petrona						Various
328	Sandoval		Hector						Various
329	Sandoval		Efrain						Various
330	Sandoval		Norma						Various
331	Sandoval	Mendez	Ismael						Various
332	Sandoval		Bonifacia						Various
333	Sandoval		Lubia						Various
334	Santiago		Adonias						Various
335	Serrano	Flamengo1097	Andres						Various
336	Serrano		Mirtala						Various
337	Sierra		Sergio						Various
338	Smith		Benjamin						Various
339	Smith		Martell						Various
340	Snyder		Cory						Various
341	Solis		Luis						Various
342	Soriano		Marvin						Various
343	Synder		Raymond						Various
344	Terry		Anthony						Various
345	Toledo	Azanon	Elvis						Various
346	Torres		Irma						Various
347	Torres		Ilda						Various
348	Tripodi		Dominic						Various
349	Umana		Geovani						Various
350	Umana		Silvia						Various
351	Umanzor	Rubi	Hector						Various
352	Valladares		Salvador						Various
353	Valle		Wilman						Various
354	Vargas		Jose						Various
355	Vargas		Luis						Various
356	Vargas		Brenda						Various
357	Vasquez		Abraham						Various
358	Vasquez		Elsy						Various
359	Vasquez		Felix						Various
360	Vasquez		Luis						Various
361	Vasquez		Maximino						Various
362	Vasquez		Walmer						Various
363	Vaughn		Tramaine						Various
364	Vega		Andy						Various
365	Velasquez		Ana						Various

Exhibit 2

CONFIDENTIAL
EMPLOYEES
June 2, 2015

366	Velasquez	Jose					Various
367	Ventura	Eugenia					Various
368	Villatoro	Ulises					Various
369	Walden	Eugene					Various
370	Watters	Ryan					Various
371	Whitaker	Maurice					Various
372	Williams	Anthony					Various
373	Williams	Timothy					Various
374	Wolfries	Francisco					Various
375	Yanez	Jose					Various
376	Zamora	Nelson					Various
377	Zapata	Ada					Various
378	Zavala	Felipe					Various
379	Zavala	Dilcia					Various
380	Zepeda	William					Various
381	Zeron	Alexis					Various
382	Zeron	Fredy					Various
383	Zeron	Jenny					Various
384	Zuniga	Gina					Various



Revised 3/21/2011 NATIONAL LABOR RELATIONS BOARD
QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME: **Green JobWorks, LLC** CASE NUMBER: **05-RC-154596**

TYPE OF ENTITY
 CORPORATION LLC LLP PARTNERSHIP SOLE PROPRIETORSHIP OTHER (Specify)

IF CORPORATION OR LLC
 A. STATE OF INCORPORATION OR FORMATION: _____ B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES: _____

IF PARTNERSHIP
 C. IF LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS: _____

IF SOLE PROPRIETORSHIP
 D. FULL NAME AND ADDRESS OF PROPRIETOR: _____

BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products, materials, or manufactured or manufactured services performed): _____

PRINCIPAL LOCATION _____ **BRANCH LOCATIONS** _____

NUMBER OF PEOPLE PRESENTLY EMPLOYED
 A. Total: _____ B. At the address involved in this matter: _____

DURING THE MOST RECENT (Check appropriate box): CALENDARY YEAR 12 MONTHS FISCAL YEAR (Specify dates) _____

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____

B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____

H. Gross Revenues from all sales or performance of services (Check the largest amount):
 \$100,000 \$250,000 \$500,000 \$1,000,000 or more If less than \$100,000, indicate amount. _____

I. Did you begin operations within the last 12 months? If yes, specify date: _____

ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?
 YES NO (If yes, name and address of association or group) _____

PRESENT AND BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
Patrick S. Stearns	Patrick S. Stearns	pat@patzaw.us	

12. AUTHORIZE REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
Patrick S. Stearns	<i>Patrick S. Stearns</i>	pat@patzaw.us	6/30/15

PRIVACY ACT STATEMENT
 Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE	
Case No.	Date Filed

INSTRUCTIONS: *Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.*
Note: *Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.*

1a. Full name of party filing Statement of Position ACECO, LLC	1c. Business Phone: 301-588-0707	1e. Fax No.: 301-440-0717
1b. Address (Street and number, city, state, and ZIP code) 901 Stoddard Place, Silver Spring, MD 20910	1d. Cell No.:	1f. e-Mail Address info@acecworld.com

2. Do you agree that the NLRB has jurisdiction over the Employer in this case? Yes No
(A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

3. Do you agree that the proposed unit is appropriate? Yes No *(If not, answer 3a and 3b.)*

a. State the basis for your contention that the proposed unit is not appropriate. *(If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)*
 See Attachment D.

b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.				
<table border="0"> <tr> <td>Added</td> <td>Excluded</td> </tr> <tr> <td>All full-time and regular part-time laborers, including demolition and asbestos removal workers, employed solely by Green JobWorks, LLC at all locations in the Washington, DC metro area.</td> <td></td> </tr> </table>	Added	Excluded	All full-time and regular part-time laborers, including demolition and asbestos removal workers, employed solely by Green JobWorks, LLC at all locations in the Washington, DC metro area.	
Added	Excluded			
All full-time and regular part-time laborers, including demolition and asbestos removal workers, employed solely by Green JobWorks, LLC at all locations in the Washington, DC metro area.				

4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.
 N/A

5. Is there a bar to conducting an election in this case? Yes No *If yes, state the basis for your position.*

6. Describe all other issues you intend to raise at the pre-election hearing.
 See Attachment E.

7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015>.
 (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)
 (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be *added* to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be *excluded* from the proposed unit to make it an

State your position with respect to the details of any election that may be conducted in this matter. 8a. Type: Manual Mail Mixed Manual/Mail

8b. Date(s) See Attachment F.	8c. Time(s) See Attachment F.	8d. Location(s) See Attachment F.
8e. Eligibility Period (e.g. special eligibility formula) See Attachment F.	8f. Last Payroll Period Ending Date See Attachment F.	8g. Length of payroll period See Attachment F. <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input checked="" type="checkbox"/> Other (specify length)

9. Representative who will accept service of all papers for purposes of the representation proceeding

9a. Full name and title of authorized representative Maurice Baskin, Counsel for ACECO, LLC	9b. Signature of authorized representative <i>Maurice Baskin (M.E.)</i>	9c. Date 7/1/2015
9d. Address (Street and number, city, state, and ZIP code) 1150 17th Street, NW, Suite 900, Washington, DC 20036		9e. e-Mail Address mbaskin@littler.com
9f. Business Phone No.: 202-772-2526	9g. Fax No. 202-842-0011	9h. Cell No. 301-922-1308

WILLFUL FALSE STATEMENTS ON THIS STATEMENT OF POSITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

NATIONAL LABOR RELATIONS BOARD
QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully. Answer all applicable items and return to the Regional Office. If additional space is required, use plain bond paper and identify item number.

CASE NAME Green JobWorks, LLC/ACECO, LLC		CASE NUMBER 05-RC-154596
1. TYPE OF BUSINESS <input checked="" type="checkbox"/> CORPORATION <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> SOLE PROPRIETORSHIP		
2. CLASSIFICATION WHICH DESCRIBES YOUR BUSINESS		
<input type="checkbox"/> WHOLESALE <input type="checkbox"/> HOSPITAL <input type="checkbox"/> TRUCKING <input type="checkbox"/> TRANSIT SYSTEM	<input type="checkbox"/> NEWSPAPER <input type="checkbox"/> HOTEL - MOTEL <input type="checkbox"/> PUBLIC UTILITY <input checked="" type="checkbox"/> BUILDING AND CONSTRUCTION	<input type="checkbox"/> OFFICE OF INDUSTRIAL BUILDING <input type="checkbox"/> MANUFACTURING/PROCESSING <input type="checkbox"/> BROADCASTING STATION <input type="checkbox"/> OTHER (Describe)
<input type="checkbox"/> RETAIL <input type="checkbox"/> SERVICE ORGANIZATION <input type="checkbox"/> NURSING HOME		
3. EXACT LEGAL TITLE OF FIRM ACECO, LLC		
4. IF A CORPORATION		
A. INCORPORATED IN STATE OF MD	B. NAME(S) AND ADDRESS(ES) OF PARENT, SUBSIDIARY, OR RELATED CORPORATION, IF ANY, AND DESCRIBE RELATIONSHIP.	
5. IF A PARTNERSHIP FULL NAME AND COMPLETE ADDRESS OF ALL PARTNERS		
6. IF A PROPRIETORSHIP FULL NAME AND COMPLETE ADDRESS OF PROPRIETOR		
7. BRIEFLY DESCRIBE THE NATURE OF YOUR BUSINESS (General products handled or manufactured, or nature of services performed). Demolition and environmental remediation services.		
8. PRINCIPAL PLACE OF BUSINESS LOCATED AT. 901 Stoddard Place Silver Spring, MD 20910		BRANCH(ES) LOCATED AT. Various locations in the Washington, DC metro area.
9. NUMBER OF PERSONNEL PRESENTLY EMPLOYED BY YOUR FIRM		
A. TOTAL The petition does not seek to represent ACECO employees.	B. AT THE ADDRESS INVOLVED IN THIS PROCEEDING The petition does not seek to represent ACECO employees.	
10. DURING THE PAST <input type="checkbox"/> CALENDAR, <input checked="" type="checkbox"/> FISCAL YEAR (If Fiscal Year indicate dates) OR <input type="checkbox"/> LAST 12 MONTHS (Check appropriate box).		
A. DID GROSS REVENUE FROM SALES OR PERFORMANCE OF SERVICES DIRECTLY TO CUSTOMERS OUTSIDE THE STATE EXCEED \$50,000 <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF LESS THAN \$50,000 INDICATE AMOUNT		\$
B. DID GROSS AMOUNT OF PURCHASES OF MATERIALS OR SERVICES DIRECTLY FROM OUTSIDE THE STATE EXCEED \$50,000 <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF LESS THAN \$50,000 INDICATE AMOUNT		\$
C. DID GROSS REVENUE FROM YOUR SALES OR PERFORMANCE OF SERVICES EQUAL OR EXCEED \$50,000 TO FIRMS WHICH DIRECTLY MADE SALES TO CUSTOMERS OUTSIDE THE STATE AND/OR TO CUSTOMERS WHICH MADE PURCHASES FROM DIRECTLY OUTSIDE THE STATE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF LESS THAN \$50,000 INDICATE AMOUNT		\$
D. IF THE ANSWER TO 10(c) IS NO, DID GROSS REVENUE FROM SALES OR PERFORMANCE OF SERVICES EQUAL OR EXCEED \$50,000 TO PUBLIC UTILITIES, TRANSIT SYSTEMS, NEWSPAPERS, HEALTH CARE INSTITUTIONS, BROADCASTING STATIONS, COMMERCIAL BUILDINGS, EDUCATIONAL INSTITUTIONS AND/OR RETAIL CONCERNS <input type="checkbox"/> YES <input type="checkbox"/> NO IF LESS THAN \$50,000 INDICATE AMOUNT		\$
E. DID GROSS AMOUNT OF YOUR PURCHASES EQUAL OR EXCEED \$50,000 FROM FIRMS WHICH IN TURN, PURCHASED THOSE GOODS DIRECTLY FROM OUTSIDE THE STATE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF LESS THAN \$50,000 INDICATE AMOUNT		\$
F. GROSS REVENUE FROM ALL SALES OR PERFORMANCE OF SERVICES (Check largest amount which firm equaled or exceeded): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$200,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input checked="" type="checkbox"/> \$1,000,000 IF LESS THAN \$100,000 INDICATE AMOUNT		\$
11. ARE YOU A MEMBER OF, OR PARTICIPATE IN, AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (If yes, give Name and Address of association or group).		
12. DID FIRM PERFORM NATIONAL DEFENSE WORK DURING THE PERIOD INDICATED IN 10 ABOVE? (If Yes, amount of dollar volume and name(s) and address(es) for whom work was performed)		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO \$
13. PROVIDE NAME & TITLE OF YOUR REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION CONCERNING THE OPERATIONS OF YOUR BUSINESS		
NAME Michael Citren	TITLE President	TELEPHONE NUMBER 301-588-0707
SIGNATURE OR AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE		
NAME AND TITLE (Type or Print) Michael Citren, President	SIGNATURE <i>Michael Citren (M.E.)</i>	DATE 7/1/2015

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

ATTACHMENT B

7(a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)

ACECO, LLC disputes that it is an employer or joint employer of any Green JobWorks, LLC employees. As no Green JobWorks employees are on ACECO's payroll, and there is no ACECO "payroll period" applicable to employees in the petitioned-for unit, ACECO does not have any information responsive to this request, but assumes that Green JobWorks will provide a responsive list of its employees in its own statement of position. In light of these circumstances, ACECO should not be precluded in any manner from litigating any issue described in this Statement of Position and developed later in this proceeding. *See* 29 C.F.R. § 102.66(d). Moreover, as described in Attachment E, ACECO objects to the application in this case of any provision of the Final Rule on Representation Case Procedures, 79 Fed. Reg. 74308 (Dec. 12, 2014), because the new Rule violates the NLRA, the Constitution, and the Administrative Procedure Act.

ATTACHMENT C

7(b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be *added* to the proposed unit, if any to make it an appropriate unit. (Attachment C)

ACECO contends that the unit is inappropriate because ACECO is neither an employer nor a joint employer of employees of Green JobWorks in the petitioned-for unit. ACECO further submits that the only appropriate unit should be a unit consisting of all full- and regular part-time laborers, including demolition and asbestos removal workers, employed solely by Green JobWorks, LLC at all locations in the Washington, DC metro area. However, ACECO does not possess the names, work locations, shifts and job classifications of any individuals employed by Green JobWorks at any locations where ACECO is not itself performing work, though on information and belief, there are many such employees. See also Attachment B response.

ATTACHMENT D

3(a): State the basis for your contention that the proposed unit is not appropriate.

ACECO contends that the unit is inappropriate because ACECO is neither an employer nor a joint employer of employees of Green JobWorks in the petitioned-for unit. ACECO further submits that the only appropriate unit should be a unit consisting of all full- and regular part-time laborers, including demolition and asbestos removal workers, employed solely by Green JobWorks, LLC at all locations in the Washington, DC metro area. The petitioned-for employees located at nine locations in this geographic area do not share a traditional community of interest separate and distinct from the other Green JobWorks employees who work at all other locations where Green JobWorks performs services. *Nieman Marcus Group*, 362 NLRB No. 11 (2014). The petitioned-for employees do not have distinct terms and conditions of employment, and they regularly interchange with Green JobWorks employees located at other job sites. In addition, all of the above-listed classifications share an overwhelming community of interest and constitute the sole and appropriate unit under *Specialty Healthcare*, 356 NLRB No. 168 (2011). In addition, the Board's *Specialty Healthcare* decision was improperly decided and/or should not be applied to the construction industry.

ATTACHMENT E

6. Describe all other issues you intend to raise at the pre-election hearing.

ACECO disputes that it is a joint employer with Green JobWorks of the petitioned-for unit of employees. The Petitioner cannot meet its burden of showing that ACECO meaningfully shares or co-determines matters essential to the “employment relationship, such as hiring, firing, discipline, supervision and direction.” *TLI, Inc.*, 271 NLRB 798 (1984), *enfd. mem.* 772 F.2d 894 (3d Cir. 1985); *Laerco Transp.*, 269 NLRB 324, 325 (1984); *NLRB v. Browning-Ferris Indus.*, 691 F.2d 1117, 1123 (3d Cir. 1982). See also *G. Wes Ltd. Co.*, 309 NLRB 225, 226 (1992) (finding no joint employer relationship in similar circumstances); *see also Pro Labor II, Inc./ACECO, LLC*, Case No. 05-RC-149858 (May 29, 2015) (Regional Director finding no joint employer relationship in similar circumstances), *request for review to the Board pending*.

Further, it would be inappropriate to conduct an election where some if not all of the projects are nearing completion and there is no reasonable expectation of future work. *See Davey McKee Corp.*, 308 NLRB 839 (1992).

ACECO also objects to application of any provision of the Final Rule on Representation Case Procedures published at 70 Fed. Reg. 74308 (Dec. 12, 2014) in this case that has been challenged in federal court. *See Chamber of Commerce, et al v. NLRB* (D.D.C.) and *Associated Builders and Contractors of Texas et al v. NLRB* (W.D. Tex.), *appeal pending* (5th Cir.). For the reasons more fully set forth in the motions for summary judgment filed by the plaintiffs in each of these pending lawsuits, ACECO contends that the 25 rule changes effective on April 14, 2015, separately and cumulatively, violate the NLRA, the Constitution, and the APA, including the rules governing this Statement of Position.

ATTACHMENT F

8(b). Date(s).

ACECO requests that no election be held in this case if a request for review has been filed by any party to this matter as to any ruling by the Regional Director on the joint employer issue or any other contested issue.

8(c). Time(s).

See response to 8(e) below.

8(d). Location(s).

In as much as ACECO is neither the employer nor the joint employer of the Green JobWorks employees in the petitioned-for unit, ACECO takes no position on the location of the vote in this matter.

8(e). Eligibility Period.

Because ACECO is neither the employer nor the joint employer of the Green JobWorks employees in the petitioned-for unit, ACECO has no information regarding the payroll eligibility period for Green JobWorks employees in the petitioned-for unit.

8(f). Last Payroll Period Ending Date.

See response to 8(e) above.

8(g). Length of Payroll Period.

See response to 8(e) above.

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

GREEN JOBWORKS, LLC/ACECO, LLC
(A JOINT EMPLOYER)

Employers

and

Case 05-RC-154596

CONSTRUCTION AND MASTER LABORERS'
LOCAL UNION NO. 11

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act (“the Act”), as amended, a hearing was held on July 2 and 6, 2015 before a hearing officer of the National Labor Relations Board (“the Board”).¹ The Construction and Master Laborers’ Local Union 11, affiliated with Laborers’ International Union of North America (“Petitioner”) filed the petition seeking to represent a unit of employees jointly employed by Green JobWorks (“GJW”) and ACECO, LLC (“ACECO”), comprised of “all full-time and regular part-time laborers, including demolition and asbestos removal workers employed by the joint employer, but excluding office clericals, confidential and management employees, guards, and supervisors under the Act.”

The parties stipulated, and I find, that Petitioner is a labor organization within the meaning of Section 2(5) of the Act, that GJW and ACECO are employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act,² and that all parties are therefore subject to the jurisdiction of the Board.

¹ In light of the Board’s August 27, 2015 decision in *Browning-Ferris Industries of California, Inc.*, 362 NLRB No. 186 (2015), the Region solicited supplemental briefs from the parties in response to the decision. Petitioner and ACECO filed supplemental briefs.

² The parties stipulated, and I find, that Green JobWorks, LLC has been a limited liability company with an office and place of business in Baltimore, Maryland, and has been engaged in business as a temporary staffing agency engaged in the business of demolition and environmental remediation, including asbestos remediation. In conducting its operations during the previous 12 months, Green JobWorks, LLC performed services valued in excess of \$50,000 in states other than the State of Maryland.

I. ISSUES AND POSITIONS OF THE PARTIES

There were three principal issues presented at the hearing: (1) whether GJW and ACECO constitute a joint employer under the Act; (2) whether a unit of all GJW employees working on an ACECO worksite is appropriate; and (3) whether all other GJW employees at non-ACECO sites share an overwhelming community of interest with the petitioned-for employees.³ In the event that I do not find that a joint employer relationship, Petitioner indicated it was willing to proceed to an election for a unit consisting of GJW employees assigned to ACECO worksites.

On the first issue, Petitioner's position is that GJW and ACECO have a joint employer relationship. Petitioner relies upon the Board's recent decision in *Browning-Ferris Industries of California, Inc.*, 362 NLRB No. 186 (2015) ("*BFI*").⁴ In *BFI*, the Board restated its joint-employer standard, holding that two or more entities will be considered joint employers of a single work force if: (1) there is a common-law employment relationship with the employees in question; and (2) the putative joint employer possesses sufficient control over employees' essential terms and conditions of employment to permit meaningful collective bargaining. *BFI*, 362 NLRB No. 186. at slip op. 2. According to the Petitioner, the facts in *BFI* are indistinguishable from the instant case, as evidenced by ACECO's overwhelming influence over discipline, overtime, layoffs, and direction of work. GJW and ACECO deny that they are joint employers. According to ACECO, the petition should be dismissed because the present facts are fundamentally different from *BFI*, namely ACECO's lack of ownership over the project sites, and its lack of control over the site and GJW employees.

Regarding the second issue, Petitioner's position is that if no joint-employer relationship is found, a unit of GJW employees at ACECO sites is an appropriate unit. However, GJW and ACECO both argue that such would not be an appropriate unit, but that there is an overwhelming community of interest between all asbestos and demolition employees employed by GJW in the greater Washington, D.C. metropolitan area and that such is the appropriate unit. Tied in with the last issue, Petitioner maintains that GJW and ACECO failed to meet their burden of establishing an overwhelming community interest of the additional employees it seeks to add to

³ In addition to these substantive issues, Petitioner alleges that ACECO failed to comply with its subpoena *duces tecum* because it provided electronic copies of the required documents, rather than paper copies. Petitioner thus seeks reimbursement for \$367.66 it incurred in printing expenses. I find that ACECO complied with the subpoena as requested, and deny the motion for reimbursement.

⁴ At the time of the hearing, the Board had not issued *BFI*; thus, Petitioner's original argument on the issue was that the evidence at the hearing established that ACECO was a joint employer of GJW employees working at its sites because ACECO meaningfully affected the conditions of employment for the employees in the petitioned-for unit, as under *Laerco Transportation*, 269 NLRB 324 (1984). In *BFI*, the Board explicitly overruled *Laerco* to the extent its formulation of the joint-employer standard was inconsistent with the standard provided in *BFI*.

the unit, namely, all of GJW's employees working at non-ACECO sites in the greater Washington, D.C. metropolitan area.

II. BACKGROUND AND FACTS

A. Overview Of GJW's Operations

GJW is a staffing company that provides temporary labor to various construction companies.⁵ Specifically, GJW provides demolition and asbestos abatement laborers to approximately 15 to 20 client construction companies, including ACECO.⁶ Companies performing asbestos removal in Maryland, Virginia, or Washington, D.C. must be licensed, and GJW is not licensed to perform asbestos removal in Maryland, Virginia, or Washington, D.C. At the time of the hearing, GJW was responsible for providing labor to eight different projects.

GJW primarily recruits new employees through advertisements and word-of-mouth-referrals. All applicants for employment must pass a drug-screening exam. If an applicant is applying for a demolition position, he must pass a safety and general knowledge test for demolition. After a drug-screening exam and general knowledge test has been completed, the individual completes an application, and GJW enters the individual's information into its database until a position becomes available.

Before assigning an employee to a particular site, GJW examines his credentials to ensure that the employee is licensed. GJW reimburses the employee for his license renewal fees if GJW assigns the employee to a site when the employee's license is up for renewal. GJW also provides training, including videos, discussions on policies and procedures in the GJW handbook regarding conduct on a job site, and safety protocols. In addition to the training, GJW tests an employee to assess his skill set, and ability to use tools that will be required on the job.

When a position becomes available, GJW contacts qualified employees in its database to offer them the position. Each employee is told the assigned wage rate for the job, and has the option to accept or reject the position. The wage rate is based on GJW's contractual relationship with the particular client, or set rates for government jobs. According to GJW's president, Larry

⁵ The parties stipulated, and I find, that ACECO, LLC has been a limited liability company with an office and place of business in Spring, Maryland, and has been engaged in the business of providing demolition, environmental remediation and renovation services to private and governmental entities in Maryland, Washington, D.C. and Virginia. In conducting its operations during the 12-month period ending June 1, 2015, ACECO performed services valued in excess of \$50,000 in States other than the State of Maryland.

⁶ Asbestos abatement refers to the removal of asbestos, a hazardous material, from buildings.

Lopez, GJW employees assigned to an ACECO site can work overtime only when ACECO gives GJW confirmation that GJW can bill ACECO for the overtime hours of GJW's employees.

GJW has an evaluation process to determine whether an employee should receive a wage increase, based on that employee's length of service and previous performance. GJW clients such as ACECO are not involved in this evaluation, or in setting the wage rate that GJW pays its employees. GJW offers benefits to its employees, such as health insurance and paid time off.

GJW field supervisor Juan Rodriguez is responsible for traveling to each project site to interact with lead employees and individual client supervisors to ensure that GJW employees have reported to work. Rodriguez is also responsible for relaying information from the GJW office to its employees at the project sites, as well as information from the client supervisors back to GJW. Rodriguez, GJW recruiting manager Alexander Miranda, GJW and clerical employee Carlos Guzman collectively determine when a GJW employee is to be reassigned to another project site.

While on ACECO sites, GJW employees are required to sign in with GJW's lead employees every day.⁷ A GJW lead employee typically takes a picture of the sign-in sheet, and sends it to GJW field supervisor Rodriguez, who then submits it to GJW for payroll processing.

While ACECO is able to request particular employees with the desired skill set by name, GJW is not obligated to comply with the request. Lopez testified that ACECO had requested employees by name in the past because it was easier than asking for a certain number of employees with the desired skill set.

B. Overview Of ACECO's Operations

ACECO is a licensed demolition and environmental remediation contractor. ACECO primarily deals with asbestos removal, but it also occasionally removes mold and lead paint. ACECO employs its own workforce, and supplements its workforce with GJW employees assigned to ACECO's work sites. ACECO provides its employees with benefits, such as a 401(k) plan and paid time off.

ACECO's president, Michael Citren, testified that ACECO's work schedule at any given work site is set by its client, the general contractor or the owner of the site where ACECO is contracted to work. At each site where ACECO is contracted, the general contractor for the project employs a supervisor who is responsible for the general safety and coordination of the site. According to Citren, ACECO's supervision of the site is restricted and subject to the general contractor's instructions. ACECO does not have the authority to go onto the site without permission from the general contractor or owner. For certain jobs, the general contractor

⁷ No party asserts that GJW lead employees are supervisors under Section 2(11) of the Act.

provides site orientation to employees assigned to work at the particular site. Citren testified that the orientation is considered a prerequisite to work on the site.

For asbestos abatement jobs, a hygienist is hired to ensure safety in the asbestos removal process. Depending on the site, the hygienist is hired by ACECO as an independent contractor, or by the building owner. According to Citren, the hygienist serves as an additional layer of oversight over workers at the sites by stepping in to direct employees in order to avoid safety violations.

C. Details Of The Relationship Between GJW and ACECO

ACECO engaged GJW to provide asbestos abatement and demolition workers to its jobsites sometime in 2012. For the first half of 2015, GJW provided labor on 26 ACECO projects. At the time of the hearing, there were four to eight ACECO work sites at which GJW employees were assigned.

When GJW receives a request for laborers from ACECO, it refers to its database to determine which available employees match the requested skill set. GJW sends the selected employees to the ACECO site until it receives notice that a particular assignment is finished, or that a skill set is no longer needed. On occasion, an ACECO representative has contacted GJW representatives and asked GJW to send particular employees, and refrain from sending others. Lopez testified that these requests were based on the skill set of the employees, and the fact that the employees had already been oriented and trained to work on the particular projects. In the event of an unplanned work stoppage on an ACECO site, GJW is responsible for reassigning its employees, while ACECO independently reassigns its employees. GJW employees that have been assigned to ACECO sites in the past do not need to request permission from ACECO before working for one of ACECO's competitors.

On May 8, 2015, GJW and ACECO entered into a Master Labor Services Agreement with a Subcontract Addendum ("the MLSA"). Under the terms of the MLSA, GJW must provide lead workers at ACECO work sites where GJW employees are assigned. These lead employees are tasked with documenting and tracking GJW employee hours, determining breaks and rest periods, and removing GJW workers from the site, if necessary. The MLSA also reinforces GJW's exclusive responsibilities regarding its employees:

- a) Recruiting, hiring, assigning, orienting, reassigning, counseling, disciplining, and discharging the Employees.
- b) Making legally-required employment law disclosures (wage hour posters, etc.) to them.

- c) Establishing, calculating, and paying their wages and overtime.
- d) Exercising human resources supervision of them.
- e) Withholding, remitting, and reporting on their payroll taxes and charges for programs that GJW is legislatively required to provide (including workers' compensation).
- f) Maintaining personnel and payroll records for them.
- g) Obtaining and administering I-9 documentation of employees' right to work in the United States.
- h) Paying employees' wages and providing the benefits that GJW offers to them.
- i) Paying or withholding all required payroll taxes, contributions, and insurance premiums for programs that GJW is legislatively mandated to provide to employees as GJW's employees.
- j) Providing workers' compensation benefits or coverage for employees in amounts at least equal to what is required by law.
- k) Fulfilling the employer's obligations for unemployment compensation.
- l) Complying with employment laws, as they apply to GJW.

The MLSA also stipulates that GJW can pay an additional wage premium to each GJW crew leader tasked with supervising GJW employees at ACECO's work sites, including tracking the attendance of GJW employees. Lopez and Citren both testified that GJW sets the rate of pay for its employees, without input from ACECO. Under the MLSA, GJW and ACECO are prohibited from soliciting the other's employees.

In addition, GJW provides its employees with hardhats, safety vests, safety glasses, steel-toed boots, respirators, and filters. ACECO provides its own employees with the listed items, but does not provide such items to GJW employees. Once at the site, ACECO provides replacement filters (for respirators) and special Tyvek suits (for asbestos containment areas) to both GJW and ACECO employees.

During the hearing, Petitioner sought to elicit evidence concerning day-to-day episodes involving GJW employees working at ACECO work sites. Regarding one particular incident in which GJW considered substituting one employee for another because of the employee's prior conflict with an ACECO supervisor, Lopez was unable to provide details about a text message exchange between GJW and ACECO supervisors because he was not involved. However, Lopez testified that GJW tries to avoid issues with its clients while providing the best workforce that can do the job.

In another distinct incident, an ACECO representative sent a GJW employee home early for going into a known restricted area without permission. An ACECO representative informed

a GJW representative that it sent the employee home, and asked that the GJW employee not return to that particular site until further notice. The GJW representative informed the ACECO representative that it would address the issue immediately. Lopez acknowledged the incident and described his understanding that ACECO's client, the general contractor, imposed the restriction, and ACECO appropriately relayed the message to GJW.

Regarding a separate occurrence, an ACECO representative sent a text message to a GJW representative, stating, "FYI, this morning around 10am, we send home one of your labors [sic] due not performing with the work and was no found at this work area, our Foreman and GC [general contractor] were looking for him for 20 minutes. So we do not need him back tomorrow. Thanks." According to the text message exchange that followed, the GJW representative asked for the name of the employee, and asked if ACECO needed a replacement. However, Lopez was unaware of the incident and could not provide any information about it during the hearing. ACECO's president, Michael Citren, acknowledged that the GJW employee in question was sent home at the direction of ACECO's client, the general contractor, because the employee committed a safety violation.

Petitioner asked Lopez about another occasion, in which it appeared that a GJW representative asked an ACECO representative by text message whether it would transfer a GJW employee from demolition work to asbestos work. Lopez was unaware of the situation, and testified that he was confused by the text message exchange. He maintained that ACECO did not have the power to transfer GJW employees, but could discuss the need to move employees from one area to another with GJW if the need arose. Citren similarly testified that GJW was not required to terminate or discipline an employee that had been removed from an ACECO jobsite.

Petitioner asked Lopez about a text message exchange in which an ACECO supervisor complained to a GJW representative about a GJW employee showing up to a work site when he should not have. The GJW representative responded, "Alexander spoke with him today and told him specifically not to go to work I'm so sorry about this."⁸ In another responsive text message to the ACECO representative, the GJW representative indicated that the GJW employee had been informed to not go to the work site, and that GJW would terminate that employee. When asked about this incident, Lopez was unaware of it and could not provide any testimony about the facts.⁹ Lopez added that Petitioner's interpretation of the text did not account for other potentially relevant facts, such as the employee's record prior to the termination.

Arturo Campos, a GJW employee, testified that in his three-year tenure with GJW, 90 percent of his assignments have been at an ACECO work site. Campos also stated that an ACECO supervisor usually gave him his daily tasks. In addition, he had never seen an ACECO supervisor send a GJW employee home, though he witnessed several instances in which a GJW supervisory employee sent a GJW employees home. Campos testified that the only discipline he

⁸ Presumably, "Alexander" refers to Alexander Miranda, GJW's recruiting and staffing manager.

⁹ No other witness was presented to discuss this incident.

had received while working for GJW was from Lopez, and that he had not received any discipline from an ACECO supervisor.

III. ANALYSIS

As explained below, I conclude that: (1) there is insufficient evidence to establish that GJW and ACECO are joint employers; (2) a unit of solely GJW employees at ACECO work sites is an appropriate unit; and (3) there is insufficient evidence to demonstrate an overwhelming community of interest among all GJW employees in the greater Washington, D.C. metropolitan area that warrants an expansion of that unit.

A. There Is Insufficient Evidence To Establish That GJW And ACECO Are Joint Employers

The Petitioner did not meet its burden of introducing specific, detailed and relevant evidence into the record for me to find that ACECO is a joint employer of the GJW employees in the petitioned-for unit. To establish a joint employer relationship, “the initial inquiry is whether there is a common-law employment relationship with the employees in question.” *BFI*, 362 NLRB No. 186, at slip op. 2 (2015). If the common-law employment relationship exists, then the inquiry turns to “whether the putative joint employer possesses sufficient control over employee’s essential terms and conditions of employment to permit meaningful collective bargaining.” *Id.* The Board no longer requires that a joint employer possess and exercise the authority to control employees’ terms and conditions. Rather, the Board identified that the putative employer’s “[r]eserved authority to control terms and conditions of employment, even if not exercised,” is probative of a joint-employer relationship, as is the actual exercise of that control. *Id.* at slip op. 2, 16. The Board includes subjects such as hiring, firing, discipline, supervision and direction as “essential terms and conditions of employment,” but the Board stated that it would recognize other examples of terms and conditions of employment in conducting a joint-employer analysis. *Id.* at slip op. 15

In the recently-decided *BFI*, the Board examined the existence of the relationship between Browning-Ferris Industries of California (BFI), a recycling facility operator, and Leadpoint, the staffing agency that provided labor to BFI. The Board determined that BFI and Leadpoint were joint employers, despite the existence of a temporary labor services agreement between the parties that stated otherwise. Although Leadpoint recruited, interviewed, and administered tests to its employees, the Board found that BFI still possessed significant control over who Leadpoint could hire to work at BFI’s facility. One of the clauses in the labor services agreement between the two entities gave BFI the unqualified right to reject any Leadpoint-referred worker for “any or no reason.” The Board deemed this power to be clear evidence that BFI exercised significant control over Leadpoint’s hiring decisions. The Board also relied upon two specific instances in which a BFI representative reported to Leadpoint the misconduct of a

Leadpoint employee and requested their immediate dismissal. Leadpoint complied with BFI's requests and dismissed the employees, demonstrating the depth of BFI's influence over Leadpoint's workforce.

Regarding day-to-day supervision and management, BFI managers had the power to counsel Leadpoint employees regarding their productivity. BFI also had the power to assign specific tasks to Leadpoint employees, as well as to hold meetings to address customer complaints and business objectives. In sum, the Board found that BFI exercised "near-constant oversight" over the Leadpoint employees. The Board noted that BFI's communicating of its directives through Leadpoint supervisors still evinced clear control over the employees by BFI, indicative of an employer-employee relationship.

Finally, the Board found that BFI played a significant role in determining the wages of Leadpoint employees. While Leadpoint had the authority to determine the pay rates for its employees, its authority was constrained by its labor services agreement with BFI. Under the terms of that agreement, Leadpoint could not pay its employees more than BFI paid its own employees for comparable work. The Board found that the sharing and codetermining of terms and conditions established that BFI and Leadpoint were joint employers of the employees in question.

Applied to the facts of the case before me, I conclude that the Petitioner failed to establish by specific, detailed evidence that ACECO had the authority to control matters governing the essential terms and conditions of GJW employees in a manner comparable to the facts of *BFI*. Based on the record evidence, I view the scope of ACECO's involvement in determining the terms of employment for GJW employees assigned to its sites as not rising to the level of BFI's involvement in the terms of employment of Leadpoint employees. Furthermore, the record evidence indicates that much of ACECO's involvement is subject to the discretion of GJW, the general contractor and the hygienist at the work sites. Thus, I conclude there is an insufficient factual basis in this record for me to find that a joint-employer relationship exists between ACECO and GJW for the GJW employees assigned to work at ACECO work sites.

1. Business Organization, Hiring, Transferring, Discipline, and Firing

The evidence demonstrates that GJW and ACECO are separate business entities, with different management that independently set and pay wages, maintain payroll records, withhold payroll taxes and provide worker's compensation for their own employees. The independent relationship is embodied in the MLSA, which places all hiring, discipline and discipline authority within GJW's exclusive discretion. There is insufficient evidence in the record to support Petitioner's assertion that either company influences the decisions of the other with regards to essential terms and conditions of employment. However, there is sufficient evidence to establish that GJW solely makes these decisions regarding its employees with minimal input from ACECO. GJW recruits and hires the employees in the petitioned-for unit, and assigns

those employees to the ACECO sites when its employees are offered and accept available positions at ACECO work sites. As in *BFI*, ACECO is not involved in interviewing or hiring GJW employees. Though ACECO can request specific GJW employees with particular skills and has done so, GJW is under no obligation to accede to any such request and provide particular employees. I do not share Petitioner's conclusion that certain text messages sent by ACECO representatives to GJW representatives that suggest a request for certain specific GJW employees establishes that ACECO has the right to control GJW's hiring decisions. Rather, I conclude that there is insufficient evidence to demonstrate that ACECO possessed or exercised the level of control identified in *BFI*.

While Petitioner attempted to demonstrate that the ACECO had the authority to transfer GJW employees from one assignment to another or to remove an employee, I do not view the evidence as supporting this assertion. Instead, the record shows that the instances in which GJW employees were sent home by non-GJW representatives were based on directives from ACECO's client, the general contractor, rather than ACECO's itself. In one instance, a GJW employee went into a restricted area, and ACECO's general contractor asked that the employee be sent home for violating safety precautions and explicit instructions. In turn, ACECO asked GJW to keep the employee in question from returning to that particular work site until further notice, as ACECO was instructed by its general contractor. According to Lopez, GJW's president, GJW complied with the general contractor's request. In another instance, ACECO's general contractor and an ACECO foreman searched for a GJW employee for 20 minutes when that employee should have been on duty. Citren, ACECO's president, testified that the general contractor directed that this employee be sent home. With this limited record evidence, I conclude that there is insufficient evidence in the record to establish that ACECO, in its sole discretion, possessed or exercised transfer or disciplinary authority over GJW employees.

Petitioner also posits that ACECO can request not to have specific GJW employees work at its site because of personality issues with ACECO workers. To support this assertion, Petitioner introduced text messages in which a GJW representative offered to send a replacement employee to an ACECO site because the initial employee "had some issues with [a] supervisor" in the past. The record evidence shows that while GJW was open to accommodating ACECO's preferences regarding the employee, GJW had final discretion. On this limited evidence, I am not willing to conclude that ACECO possesses the authority Petitioner contends that ACECO has over GJW's employees.

The MLSA between ACECO and GJW grants ACECO the "right to direct GJW management and/or supervisory personnel to dismiss from the job site/location any GJW staff member for safety issues or any other reasonable objections to such staff members remaining on site." In *BFI*, the Board noted BFI's power to reject any personnel and discontinue the use of any personnel for "any reason." However, ACECO's right to refuse a GJW employee for safety violations or other *reasonable* objections does not rise to the level of BFI's unqualified right of

refusal. That said, this authority, as indicated in the MLSA, is arguably an element within ACECO's control that favors a finding of a joint employer relationship.

Regarding the authority to terminate GJW employees, Petitioner did not introduce evidence comparable to the facts in *BFI*, where BFI possessed and exercised the power to request the immediate dismissal of employees. Rather, the record indicates that ACECO does not have the authority to do so, nor is there any indication that ACECO had exercised such a right. To support its assertion that ACECO possessed the authority to terminate the employment of a GJW employee, Petitioner refers to a text message exchange in which an ACECO representative asked a GJW representative for an explanation regarding an employee that had reported to the site. According to the response from the GJW representative, that employee had been specifically instructed by GJW to not report to that site. The record does not provide any supporting details to explain why the GJW employee was not supposed to be at the site, or who had requested the prohibition in the first place. Furthermore, the evidence does not indicate that ACECO was demanding that GJW terminate the employee, but rather that GJW explain the employee's presence. The record is vague on the circumstances that precipitated the incident, but it is clear that GJW had previously informed the employee to not report to the site, and the employee violated GJW's instruction. Without more information about the circumstances of this incident, I do not view it as rising to the level in *BFI*, in which BFI sent an e-mail to Leadpoint requesting immediate dismissal of employees. There is little indication in the record that ACECO possessed or exercised control over the termination decision for the employee in question.

2. Wages

Unlike the facts in *BFI*, ACECO exercised limited influence on the wages of GJW employees. Citren testified that he did not know the rate of wages for GJW employees. Petitioner seems to posit that ACECO controls the wages of GJW employees when it negotiates with GJW the contract price for each project. Based on the contract between the parties, GJW charges ACECO a set amount per hour for different tasks to be completed by GJW employees. Under such a contractual arrangement, Petitioner seems to argue that ACECO controls the authority of the wage rate for GJW employees because, in effect, ACECO is reimbursing GJW for the wages that GJW pays its employees. As a practical consideration, I assume the argument is that ACECO thus possesses control over the GJW employees' wage rate because GJW will not pay its employees a wage rate if more than GJW can charge to ACECO. However, Lopez testified that GJW employees had the power to individually negotiate a higher wage by demonstrating a stellar job performance record and other relevant factors. Lopez indicated that some GJW employees had done this successfully. Thus, I conclude that there is insufficient evidence in the record to determine what rates ACECO employees receive, in comparison to GJW employees. There is similarly insufficient evidence to determine whether any GJW employee has ever negotiated a wage higher than an ACECO employee makes for comparable work. Unlike the agreement in *BFI*, the MLSA between ACECO and GJW does not specifically

prohibit GJW from paying its employees more than ACECO pays its employees for comparable work. Therefore, ACECO's authority over the wages of GJW's employees in wage setting is not comparable to BFI's influence on the wages of Leadpoint employees. This factor cuts against a joint employer finding.

3. Daily Supervision

Arturo Campos, a GJW employee familiar with ACECO sites, testified that GJW sends employees home, sets the employees' schedules, and informs the employees of their next client project. This supports GJW and ACECO's position that ACECO has minimal involvement in terms and conditions of employment of GJW employees. Other than Campos's claim that he received instructions about day-to-day tasks from ACECO supervisors, most of his testimony supported the position that GJW made most of the substantive decisions surrounding the terms and conditions of his employment. Furthermore, there is insufficient evidence on the record to address whether Campos continued to receive day-to-day instructions from ACECO after the execution of MLSA and the Addendum in May 2015. Thus, Campos' claims regarding the level of daily supervision by ACECO supervisors could concern the time period prior to the effective date of the MLSA.

In *BFI*, the Board found that supervisors exercised authority to hold meetings with Leadpoint employees to direct them to improve their performance. There is insufficient evidence in the record to establish that ACECO possessed or exercised comparable authority. Instead, the record shows that employee-wide meetings were held for orientation purposes, and these trainings were run by the general contractor, and not ACECO.

Campos testified that ACECO supervisors assign his daily tasks. However, the record fails to show that ACECO's supervision includes showing the GJW employees how to work. Unlike the *BFI* decision, in which the Board found clear evidence of direct and constant oversight, the instant record shows that ACECO exercised minimal supervision over GJW employees. The general contractor and hygienist had more supervisory authority than ACECO supervisors. For example, Citren testified that the day-to-day schedule was set by the general contractor, and not ACECO. Even ACECO employees were not authorized to be on jobsites without permission the general contractor.

In contrast, in *BFI*, the managers exercised "near-constant oversight" over Leadpoint employees. BFI supervisors assigned employees to specific tasks and counseled them about their job performance as needed. There is little indication that ACECO exercised this level of oversight over GJW employees directly or indirectly. During his testimony, Campos indicated that he largely worked autonomously on ACECO jobsites, given his level of experience. The

varying element of control exercised by BFI and ACECO over the leased employees further cuts against a finding of joint employer.

4. The Appropriateness of ACECO's Participation in Bargaining

Petitioner argues that ACECO is a necessary party to any collective-bargaining discussions because ACECO exerts so much influence over GJW employees. In contrast, ACECO argues that Petitioner failed to meet its burden of showing that ACECO had sufficient control over the employees to allow "meaningful collective bargaining." ACECO draws a distinction between the facts of *BFI* and the record evidence on ACECO's level of control over "bargainable issues." In *BFI*, the Board determined that BFI had ultimate control over bargainable issues such as break times, safety, the speed of work, and the productivity of Leadpoint employees. ACECO argues that there is clear evidence in the record to establish that ACECO does not have control over any of these issues regarding GJW employees.

I find that ACECO is correct in this regard. The record evidence indicates that the schedule is set by the general contractor, who has ultimate control over the work sites. Regarding safety issues, the record demonstrates that the hygienist, rather than ACECO, has more input on safety measures. According to Citren, the general contractor hires the hygienist for some site, and that occasionally ACECO hires a hygienist as an independent contractor. ACECO supervisors defer to the hygienist regarding safety concerns on the work site. As for the breaks and the productivity of GJW employees, the MLSA between ACECO and GJW assigns that power to lead GJW employees, rather than ACECO. As such, there is little record support for the argument that ACECO has ultimate control that is probative of an employment relationship such that it would warrant ACECO's involvement in collective-bargaining.

Accordingly, I find that the Petitioner did not meet its burden of establishing by specific, detailed evidence that ACECO is a joint employer of the GJW employees. Nevertheless, for reasons set forth below, I find that an alternative unit of workers solely employed by GJW at ACECO sites is an appropriate unit.

B. There Is Sufficient Evidence To Demonstrate That The Alternative Petitioned-For Unit Of Solely Green JobWorks Employees At ACECO Work sites Share A Community Of Interest, And Is Thus An Appropriate Unit.

I find that a petitioned-for unit,¹⁰ modified to include GJW as the sole employer, and limited in scope to those GJW employees assigned to ACECO work sites is an appropriate unit.

The Board's procedure for determining an appropriate unit under Section 9(b) is to examine first the petitioned-for unit. If that unit is appropriate, then the inquiry into the

¹⁰ At hearing, Petitioner indicated it was willing to proceed to an election for an alternative unit.

appropriate unit ends. *Overnite Transp. Co.*, 331 NLRB 662, 663 (2000). The petitioned-for unit does not need to be the *only* appropriate unit, or even the *most* appropriate unit, but merely *an* appropriate unit. *See Overnite Transportation Co.*, 322 NLRB 723, 723 (1996).

To determine whether the proposed unit is an appropriate unit, the Board's focus is on whether the employees share a "community of interest." *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No. 83, slip op. at 14 (2011), citing *NLRB v. Action Automotive, Inc.*, 469 U.S. 490, 491 (1985). In determining whether employees in a proposed unit share a community of interest, the Board examines:

[W]hether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised.

Id. at 9. "[T]he manner in which a particular employer has organized his plant and utilizes the skills of his labor force has a direct bearing on the community of interest among various groups of employees in the plant and is thus an important consideration in any unit determination." *International Paper Co.*, 96 NLRB 295, 298, n.7 (1951).

An appropriate unit is not rendered inappropriate by the mere fact that its employees share a community of interest with additional employees outside the unit. *Specialty Healthcare*, supra, at slip op. 15 (Aug. 26, 2011). Thus, "demonstrating that another unit containing the employees in the proposed unit plus others is appropriate, or even that it is more appropriate, is not sufficient to demonstrate that the proposed unit is inappropriate." *Id.* Instead, "both the Board and courts of appeals have necessarily required a *heightened showing* to demonstrate that the proposed unit is nevertheless inappropriate because it does not include additional employees." *Id.* (emphasis added). Specifically, the employer must show, using the traditional community-of-interest factors, "that employees in the larger unit share an overwhelming community of interest with those in the petitioned-for unit." *Id.* at slip op. 17.

Here, I find that a unit of GJW employees working at ACECO sites is an appropriate unit because the employees are a readily-identifiable group and share a community of interest. That the unit is readily identifiable is self-evident—it is all of GJW's employees working for a particular contractor. Furthermore, no party contends that such a unit is not readily identifiable. As for the second portion of the inquiry, the record evidence is sufficient for me to find that these employees have a community of interest. They are all licensed asbestos-abatement workers that work for GJW on ACECO projects.

Pursuant to the MLSA supervisory structure, GJW employees at ACECO sites are supervised by GJW lead workers who all report to a GJW representative, Juan Rodriguez. The

record demonstrates that the recently-memorialized arrangement in which GJW lead workers are paid an additional wage is currently limited to employees at ACECO sites. Therefore, there appears to be a common supervisory structure in place, meeting that community of interest factor. Employees at ACECO sites share common skills and job duties, common work sites and working conditions, as well as common supervision. I thus find that GJW employees working at ACECO sites constitute an appropriate unit.

As GJW is engaged in the construction industry and the record reflects that the number of unit employees varies from time to time, the eligibility of voters will be determined by the formula set forth in *Daniel Construction Co.*, 133 NLRB 264 (1961) and *Steiny & Co.*, 308 NLRB 1323 (1992).

C. There Is Insufficient Evidence To Demonstrate An Overwhelming Community Of Interest Among All GJW Employees That Warrants An Expansion Of the Petitioned-For Unit.

When a petition seeks a unit of employees who are readily identifiable as a group (based on job classifications, departments, functions, work locations, skills or similar factors), and the employees in the group share a community of interest under the traditional criteria, the burden of proof is on the proponent of a larger unit to demonstrate that the additional employees it seeks to include share an “overwhelming community of interest” with the petitioned-for employees, such that there “is no legitimate basis upon which to exclude certain employees from” the larger unit because the traditional community-of-interest factors “overlap almost completely.” *Odwalla, Inc.* 357 NLRB No. 132, slip op. at 4 (December 9, 2011); *Specialty Healthcare*, supra, slip op. at 11-13 and fn. 28. The crux of the argument as to why the GJW employees working at non-ACECO work sites share an overwhelming community of interest with the GJW working at ACECO sites is that there is no record evidence indicating that the included employees have any skills, training, or other terms and conditions of employment that is at all distinct from the excluded employees.

As discussed above, pursuant to the MLSA, the GJW employees at ACECO sites now have a formally-designated lead worker who acts as the point of contact to Juan Rodriguez, the GJW field supervisor. The lead workers are specially trained for the position and paid more money than the other employees. These employees submit daily timesheets to GJW at the end of each shift, and work with the client’s job site supervisors to direct the GJW workforce. While GJW maintains that the position is not new, the records shows that there are some variations in the responsibilities of the formalized team leaders, and the informal team leaders. The record also shows that six of GJW’s seven other work sites do not yet have a formal lead worker system as memorialized in the MLSA. Therefore, the supervisory structure for GJW employees at ACECO sites varies from the supervisory structure for GJW employees at other client sites.

Additionally, GJW pays its employees working at ACECO sites based on the negotiated contract rates with ACECO. As such, the wages GJW employees receive while on ACECO sites

may vary from what they are paid for working on other GJW client sites, even while performing the same type of work. These variations in supervisory structure and potential wage for similar work cut against the argument of an overwhelming community of interest demanding inclusion in the readily identifiable unit. Further, there is insufficient evidence to demonstrate an overwhelming community of interest among all GJW employees that necessitates expanding the unit that I find to be appropriate. As discussed above, it is not necessary for a unit to be the most appropriate unit, it must simply be an appropriate unit.

IV. CONCLUSIONS AND FINDINGS

Based on the entire record in this matter, and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. Green JobWorks, LLC has been a limited liability company with an office and place of business in Baltimore, Maryland, and has been engaged in business as a temporary staffing agency engaged in the business of demolition and environmental remediation, including asbestos remediation. In conducting its operations during the 12-month period ending June 30, 2015, Green JobWorks, LLC performed services valued in excess of \$50,000 in states other than the State of Maryland.
3. ACECO, LLC has been a limited liability company with an office and place of business in Silver Spring, Maryland and has been engaged in the business of providing demolition, environmental remediation and renovation services to private and governmental entities in Maryland, Washington, D.C. and Virginia. In conducting its operations during the 12-month period ending June 30, 2015, ACECO, LLC performed services valued in excess of \$50,000 in states other than the State of Maryland.
4. Green JobWorks, LLC and ACECO, LLC are each an employer as defined in Section 2(2) of the Act and are each engaged in commerce within the meaning of Sections 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
5. Petitioner is a labor organization as defined in Section 2(5) of the Act.
6. 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.
7. I find the following employees of Green JobWorks constitute a unit appropriate for the

purpose of collective-bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time laborers, including demolition and asbestos removal workers, and lead employees employed by Green JobWorks, LLC, and assigned to ACECO, LLC work sites, but excluding office clericals, professionals, confidential employees, managerial employees, guards, and supervisors as defined by the Act.

V. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by the Construction and Master Laborers' Local Union 11, affiliated with Laborers' International Union of North America.

A. Election Details

I have determined that a mail ballot election will be held. Mail balloting may be used in certain circumstances, such as where the eligible voters are scattered because of their duties or work schedules. In such situations, I may conduct an election by mail ballot, taking into consideration the desires of the parties, the ability of voters to understand mail ballots, and the efficient use of personnel. *San Diego Gas & Electric*, 325 NLRB 1143 (1998). GJW employees are scattered over numerous worksites, and a mail-ballot election is most likely to maximize eligible voter participation in this case.

The election will be conducted by mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 05, on **November 3, 2015**.

If any eligible voter does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, he or she should contact the Region 05 office at 410-962-2219 by no later than 4:45 p.m. on **November 10, 2015** in order to arrange for another mail ballot kit to be sent to that employee. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 05 office by close of business on **November 23, 2015**.

The mail ballots will be counted at the Region 05 office located at Bank of America Center, Tower II, 100 S. Charles Street, Suite 600, Baltimore, MD 21201 at **2:00 p.m.** on **November 24, 2015**.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in 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 are those GJW employees who have been employed for a total of 30 working days or more at an ACECO site within the period of 12 months immediately preceding the eligibility date for the election, or who have some employment in that period and have been employed by GJW for 45 working days or more at an ACECO site within the 24 months immediately preceding the eligibility date for the election, and who have not been terminated for cause or quit voluntarily prior to the completion of the last job for which they were employed.

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.

C. Voter List

As required by Section 102.67(1) 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.

To be timely filed and served, the list must be *received* by the Regional Director and the parties by **TWO business days after the date of issuance**. 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 name 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 accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be 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

October 21, 2015

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.

(SEAL)

Dated: October 21, 2015

/s/ Charles L. Posner

Charles L. Posner, Regional Director
National Labor Relations Board, Region 5
Bank of America Center -Tower II
100 South Charles Street, Suite 600
Baltimore, Maryland 21201

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 5**

IN RE:

**GREEN JOBWORKS, LLC/ACECO,
LLC**

Case 05-RC-154596

Joint Employers, and

**CONSTRUCTION AND MASTER
LABORERS' LOCAL UNION 11,
LIUNA,
*Petitioner.***

**REQUEST FOR REVIEW
OF PETITIONER CONSTRUCTION AND MASTER
LABORERS' LOCAL UNION 11, LIUNA**

The Petitioner, Construction and Master Laborers' Local Union 11, affiliated with the Laborers' International Union of North America, (hereinafter, the "Union" or "Local 11"), files this Request for Review of Charles Posner, Regional Director of Region 5 of the National Labor Relations Board's ("NLRB's") Decision and Direction of Election, dated October 21, 2015.

Local 11 filed this request because the Regional Director's decision is: 1.) Contrary to the Board's recent officially reported precedent in *Browning-Ferris Industries*, 362 NLRB No. 186 (2015) ("*BFI*") regarding the standard for finding joint-employer status under the Act; and 2.) The Regional Director's factual finding that ACECO, LLC lacks control over the terms and conditions of the employees of Green JobWorks, LLC is clearly erroneous.

This case presents a garden-variety temporary staffing agency, Green JobWorks, LLC, ("GJW"), working with an asbestos and demolition contractor, ACECO. Despite that the Regional Director's decision occurred after the Board's decision in *BFI*, the Regional Director nevertheless found that no joint-employer relationship existed. The case contains evidence that

ACECO exercises significant influence and control over the employment conditions of GJW employees, and, indeed, exercises significant control over GJW's overall operations. Nevertheless, the Regional Director failed to find a joint employer relationship on the ground that the control that ACECO exercised either was too limited, too routine, or it was mediated by the fact that GJW theoretically could fail to follow ACECO's directives, even though the record is devoid of examples where GJW did refuse to follow ACECO's directives. In sum, if the Regional Director's decision is permitted to stand, the Board's decision in *BFI* will be eviscerated, and joint employer determinations will continue to be based upon microscopic parsing of the degree and routineness of the control exercised or held by putative joint employers. If the more expansive joint-employer doctrine announced in *BFI* signifies anything, then it should signify that garden-variety relationships between temporary staffing agencies and user employers typically create joint-employment relationships. The Board should so hold in this case and find that a joint-employer relationship is present here. Furthermore, the Board should amend the Regional Director's Decision and Direction of Election to specify that ACECO and GJW are joint employers. Because the bargaining unit for which the Regional Director ordered an election is identical to the unit that would exist for a joint employer ACECO-GJW, however, the Board should affirm appropriateness of the election directed by the Regional Director.

STATEMENT OF THE ISSUES

1. Is the Regional Director's Decision finding that Green JobWorks and ACECO are not joint employers consistent with the Board's officially reported precedent in *Browning-Ferris Industries*, 362 NLRB No. 186 (2015)?

2. Is the Regional Director's factual finding that ACECO does not co-determine the terms and conditions of employment of the GJW employees assigned to ACECO clearly erroneous?

FACTS

A pre-election hearing was held on July 2, 2015. At the hearing, the following witnesses gave testimony: Larry Lopez, the President of Green Jobworks, LLC ("GJW"), and Arturo Campos, an employee of the putative joint employer, GJW-ACECO, and Michael Citren, the president of ACECO.

The first witness of the hearing was Lazaro "Larry" Lopez, the President of GJW. (R. 21:3-6.) GJW is a construction staffing firm that provides labor in the construction industry (R. 21:7-10.) It focuses on demolition and environmental remediation, especially asbestos and lead removal. (R. 21:11-16.) GJW started supplying labor to ACECO in 2013. (R. 22:16.)

ACECO often communicates with GJW about its labor needs through text messages. Lopez testified that ACECO can cause GJW to move GJW employees from one job to another. (R. 45:24-46:8; Ex. P-5.) ACECO also frequently requests specific GJW employees by name to be retained on a project, with other employees being laidoff. (R. 57:5-9; 61:5-20; 91:24-92:12; Ex. P-5; Ex. P-6 at 23.) ACECO also may request GJW employees by name. (R. 95:6-25; 104:12-105:4.) On occasion, ACECO personnel moved GJW employees without the knowledge of GJW's management. (R. 58:24-59:17; Ex. P-5.) Under GJW's procedures, ACECO must give approval before employees can work overtime. (R. 71:16-72:25; Ex. P-5.) ACECO also has the authority to send GJW employees home for the day, causing them to lose hours and wages. (R. 75:4-22; Ex. P-5.)

Although Lopez was not personally familiar with it, text messages produced by ACECO appear to show ACECO referring individuals to be hired by GJW. (R. 81:6-15; Ex. P-6.)

ACECO also can effectively cause the termination of GJW employees. One instance recorded in text messages shows an ACECO supervisor complaining of a GJW employee Alvaro Martinez showing up to a project when he should not have. (R. 84:1-17; Ex. P-6.) GJW receives ACECO's complaints and terminates the employees shortly thereafter. (*Id.*) In another instance, a GJW employee was found away from where he was supposed to be working. ACECO sent a message to GJW to "make sure he doesn't show up to DOI [Department of the Interior] until further notice." (Ex. P-6 at 17.) ACECO also had authority to transfer GJW employees from lead to asbestos work. (R. 87:10-89:18; Ex. P-6 at 19.). In one instance, the GJW Chief Operating Officer ("COO") asked the ACECO supervisors where they, the ACECO supervisors, would transfer the GJW employee. (Ex. P-6 at 19.) When the ACECO supervisors told the GJW COO where the employees would be placed, the GJW COO responded, "Okay, Got it. Perfect." (Ex. P-5 at 19.) Lopez confessed that he was confused by the email. (R. 89: 6-10.)

ACECO also can request not to have a specific GJW employee due to the personality issues that the GJW employee has with ACECO workers. (R. 98:18-99:13.) ACECO also has sent GJW employees home from ACECO projects based upon the GJW employee's behavior on prior projects. (R. 100:3-19; Ex. P-6 at 43.) The response of the GJW COO was "Oh, okay. Thank you." (R. 101:9-10.)

The second witness was Arturo Campos, an employee of GJW of three years who has worked fifteen to twenty jobs with ACECO. Campos testified that ACECO supervisors direct GJW employees with regard to how they work. Specifically, he testified that they can direct employees when to remove asbestos outside of a containment area, rather than within a containment area. (R. 110:21 -111:22).

The President of ACECO, Michael Citren, also testified. Of particular note, Citren explained that ACECO was responsible for initiating the revision of GJW's Master Labor

Services Agreement. (R. 151:8-152:4.) As explained by Citren, the revision of the agreement was instigated by the petition for an election that Local 11 filed alleging that ACECO and Pro Labor II, Inc., another temporary staffing company, were joint employers. (*Id.*) Indeed, Citren caused language from ACECO's agreement with Pro Labor to be added to GJW's Agreement. (R. 154:12-21.) The revised Master Labor Services Agreement for the first time formally established the classification of "leadworker" at GJW.

THE DECISION AND DIRECTION OF ELECTION

On October 21, 2015, the Regional Director of Region 5, Charles Posner, issued a Decision and Direction of Election in this case. In the decision, the Regional Director found that ACECO and GJW were not a joint employer, yet he nevertheless directed an election for an appropriate unit consisting of all employees employed by GJW assigned to ACECO.

Regarding the joint employer issue, the Regional Director made the following findings germane to this request for review. Although the Regional Director acknowledged evidence that ACECO "can request specific GJW employees," he determined that this did not constitute "control" identified in *BFI* because "GJW is under no obligation to accede to any such requests." DDE at 10. The Regional Director also acknowledged evidence of ACECO removing GJW employees from its job sites. The Regional Director found that this evidence did not favor a joint employer finding because in two instances the general contractor also wanted the employee removed. In another example, ACECO sought the removal of an employee due to personality issues with a supervisor. There, the Regional Director found that GJW merely "was open to accommodating ACECO's preferences regarding the employee." DDE at 10. In another instance, a GJW employee reported to an ACECO site after ACECO instructed the employee not to. Although the report from ACECO led to the employee's termination, the Regional Director found

that the evidence did not show that ACECO had the right to demand immediate discharge, as was present in the *BFI* case.

With regard to wages, the Regional Director rejected Local 11's argument that ACECO co-determined GJW employee's wages because ACECO had to agree to a reimbursement rate for wages paid by GJW. The Regional Director's rejection of this argument appears to be based upon testimony from GJW's president Larry Lopez that "GJW employees had the power to individually negotiate for a higher wage." DDE at 11. However, later in the DDE the Regional Director contradicted this conclusion by finding that "GJW pays its employees working at ACECO sites based on the negotiated contract rates with ACECO. As a result, the wages GJW employees receive while on ACECO sites may vary from what they are paid for working on other GJW client sites, even while performing the same type of work." DDE at 11-12.

With respect to supervision, the Regional Director acknowledged the testimony of Arturo Campos, a GJW employee, that ACECO supervisors assign his daily tasks. DDE at 12. The Regional Director did not find this evidence probative of joint-employment status, however, because "the record fails to show that ACECO's supervision included showing the GJW employees how to work." DDE at 12.

Lastly, the Regional Director appears to have ignored and failed to comment on the evidence from the Petition that ACECO transferred GJW employees from site to site and from demolition to asbestos without first informing GJW, or that ACECO identified employees for layoff by name, or that ACECO had to pre-authorize overtime worked by GJW employees.

ARGUMENT

I. THE REGIONAL DIRECTOR'S FINDING THAT ACECO AND GJW ARE NOT JOINT EMPLOYERS IS CONTRARY TO *BFI*.

A. *The Joint Employment Standard under BFI.*

BFI involved, as here, one business, Leadpoint, that supplied employees to another company, Browning Ferris, Inc. (“BFI”). *BFI*, 332 BFI at *2. BFI operated a recycling center, and Leadpoint supplied to BFI workers whose job was to sort recyclable materials at the facility. *Id.* As in this case, both BFI and Leadpoint employed their own supervisors and leadworkers. *Id.* at *3.

With respect to hiring, the record in *BFI* showed that BFI played no formal role in recruiting, interviewing, testing, selecting, or hiring Leadpoint personnel. *Id.* at *3. However, BFI could cause Leadpoint to cease referring an individual to BFI if that individual was considered “ineligible” to work for BFI due to past performance issues with BFI. *Id.* at *3.

With respect to discipline, BFI possessed the power to reject any employee referred to it by Leadpoint. *Id.* at *4. The record also disclosed two incidents in which BFI prompted the discharge of Leadpoint employees. *Id.* at *4.

With respect to wages and benefits, as in this case, Leadpoint worked on a cost-plus basis in which it was reimbursed for its costs, plus a mark-up. When the minimum wage increased, BFI agreed to pay Leadpoint a higher rate. *Id.* at *4. As in this case, Leadpoint was responsible for all of the financial aspects of employment for the Leadpoint workers, including wages and all benefits. *Id.* at *4.

With respect to productivity, the record showed that BFI established the shifts, the headcounts of workers, and determined which lines would run. BFI also set productivity standards and worked directly with Leadpoint workers to address productivity issues, including the Leadpoint workers’ use of an emergency stop switch.

The record also showed that BFI held meetings to directly train Leadpoint workers regarding aspects of the work. The contract between BFI and Leadpoint afforded BFI the right to examine Leadpoint's books. While BFI had the right to insist that no Leadpoint worker be assigned to BFI for more than 6 months, BFI had not invoked that provision.

Based upon the foregoing facts, the Board ruled that BFI and Leadpoint were joint employers because they co-determined the employment relationship of the Leadpoint employees. In making this ruling, the Board explicitly overruled *Laerco*, *TLL*, *A&M Property*, and *Airborne Express*, cases that imposed highly specific factual showings before a joint-employer relationship could be found. In general, the overruled cases required the following showings be made before a joint-employer relationship could be found: 1.) evidence of direct and immediate control over employees rather than mediated or indirect control; 2.) consideration only of the actual practices of the parties rather than the contract provisions; and 3.) requiring an employer's control to be substantial and not "limited and routine." In rejecting these narrow requirements for finding a joint-employer relationship, the Board endorsed the following revised standard:

[T]wo or more entities are joint employers of a single work force if they are both employers within the meaning of the common law, and if they share or codetermine those matters governing the essential terms and conditions of employment."

The Board specified that essential terms and conditions of employment include all of the following: wages, hours, dictating the number of workers to be supplied, controlling scheduling, seniority, over-time, and assigning work and determining the manner and method of work performance. *Id.* at *15.

Under the revised standard, it no longer is determinative whether authority or control is contractually reserved but not exercised. *Id.* Nor is it determinative whether the control over the workforce is direct, immediate, or only "limited and routine." *Id.* Rather, "the right to control, in the common law sense, is probative of joint-employer status, as is the actual exercise of control,

whether direct or indirect.” *Id.* at 16. Importantly, the touchstone under the revised standard is whether “the putative joint employer’s control ... permit[s] meaningful collective bargaining.” *Id.* at 16.

B. ACECO and GJW Are Joint Employers Under BFI.

The instant case is factually indistinguishable from *BFI*. *BFI* involved, as here, one business, Leadpoint, that supplied employees to another company, Browning Ferris, Inc. (“BFI”). *BFI*, 332 BFI at *2. Also like the instant case, both BFI and Leadpoint employed supervisors and leadworkers. *Id.* at *3. Here, Green JobWorks supplies workers to ACECO. ACECO provides supervisors, while Green JobWorks, starting in May 2015, provides leadworkers to job sites.

With respect to hiring, the record in *BFI* showed that BFI played no formal role in recruiting, interviewing, testing, selecting, or hiring Leadpoint personnel. *Id.* at *3. In contrast, in this case text messages produced by ACECO appear to show ACECO referring individuals to be hired by GJW. (R. 81:6-15; Ex. P-6.)

In *BFI*, BFI could cause Leadpoint to cease referring an individual if they were considered “ineligible” to work for BFI due to past performance issues with BFI. *Id.* at *3. With respect to discipline, BFI possessed the power to reject any employee referred to it by Leadpoint. *Id.* at *4. The record in *BFI* also disclosed two incidents in which BFI prompted the discharge of Leadpoint employees. *Id.* at *4. Similarly here, the Master Labor Services Agreement between GJW and ACECO reserves to ACECO the “right to direct GJW management and/or supervisory personnel to dismiss from the job site/location any GJW staff member for safety issues or any other reasonable objections to such staff member(s) remaining on site.” (Em. ACECO Ex 1, at 2.)

Similar to *BFI*, the record in this case demonstrates numerous instances in which ACECO caused Green JobWorks employees to be disciplined and transferred. ACECO also has the authority to send GJW employees home for the day, causing them to lose hours and wages. (R. 75:4-22; Ex. P-5.) ACECO also can effectively cause the termination of GJW employees. One instance recorded in text messages shows an ACECO supervisor complaining of a GJW employee Alvaro Martinez showing up to a project when he should not have. (R. 84:1-17; Ex. P-6.) GJW receives ACECO's complaints and terminates the employees shortly thereafter. (*Id.*) In another instance, a GJW employee was found away from where he was supposed to be working. ACECO sent a message to GJW to "make sure he doesn't show up to DOI until further notice." (Ex. P-6 at 17.)

ACECO also can request not to have a specific GJW employee due to the personality issues that the GJW employee has with ACECO workers. (R. 98:18-99:13.) ACECO has sent GJW employees home from ACECO projects based upon the GJW employee's behavior on prior projects. (R. 100:3-19; Ex. P-6 at 43.) The response of the GJW COO was "Oh, okay. Thank you." (R. 101:9-10.)

With respect to wages and benefits, as in this case, Leadpoint worked on a cost-plus basis in which it was reimbursed for its costs plus a mark-up. When the minimum wage increased, BFI agreed to pay Leadpoint a higher rate. *Id.* at *4.

Similarly, in this case, Green JobWorks operates on a cost-plus basis with ACECO. The record reflects that Green JobWorks negotiates custom rates for jobs where specialized minimum wages called prevailing wages under the Davis-Bacon Act apply. (R. 24:22-25:12.) In *BFI*, the Board noted that cost-plus arrangements are probative of joint-employment status. *See BFI*, 368 NLRB at *9 ("Contractual arrangements under which the user employer reimbursed the supplier for workers' wages or imposed limits on wages were also viewed as tending to show joint-

employer status.”), citing cases therein at n.37; *see also CNN Am.*, 361 NLRB No. 47 slip op. at 6 (2014) (relying on parties’ cost-plus arrangement as evidence of joint-employer status). Also as with *BFI*, ACECO must give approval before employees can work overtime. (R. 71:16-72:25; Ex. P-5.)

With respect to the direction of work, the Employers’ brief acknowledges that ACECO directs the work of Green JobWorks’ employees and monitors performance to ensure that work is completed as required. *See* Ers. Post Hearing Br. at 15 (“ACECO’s ‘supervisors’ merely tell GJW employees which part of the building to perform their work and monitor them in a limited and routine manner to ensure safety and measures required by law and by Grunley Construction are in place.”). In addition to this admitted fact, Arturo Campos, an employee of GJW of three years who has worked fifteen to twenty jobs with ACECO, testified that ACECO supervisors direct GJW employees with regard to how they work. Specifically, he testified that they can direct employees when to remove asbestos outside of a containment area, rather than within a containment area. (R. 110:21 -111:22).

Other facts in this case make the evidence of joint-employer status even stronger than the facts of *BFI*. In *BFI*, the record indicated that BFI set the worker head count, but did not assign individual workers, Here, by contrast, Lopez testified that ACECO can cause GJW to move GJW employees from one job to another. (R. 45:24-46:8; Ex. P-5.) ACECO also frequently requests specific GJW employees by name to be retained on a project, with other employees being laidoff. (R. 57:5-9; 61:5-20; 91:24-92:12; Ex. P-5; Ex. P-6 at 23.) ACECO also may request GJW employees by name. (R. 95:6-25; 104:12-105:4.) On occasion, ACECO personnel moved GJW employees without the knowledge of GJW’s management. (R. 58:24-59:17; Ex. P-5.)

ACECO also has authority to transfer GJW employees from lead to asbestos work. (R. 87:10-89:18; Ex. P-6 at 19.). In one instance, the GJW COO asked the ACECO supervisors where they, the ACECO supervisors, would transfer the GJW employee. (Ex. P-6 at 19.) When the ACECO supervisors told the GJW COO where the employees would be placed, the GJW COO responded, “Okay, Got it. Perfect.” (Ex. P-5 at 19.) Lopez confessed that he was confused by the email. (R. 89: 6-10.)

In sum, the evidence presented at the hearing demonstrates that GJW and ACECO are joint employers because they codetermine the conditions of employment for the employees identified in the petition. This codetermination is demonstrated in text messages that show the decisive influence of ACECO over matters such as discipline, overtime, layoffs, recall from layoffs, hiring, on-site supervision, and direction of work. ACECO also provides nearly all tools and disposable personal protective equipment. At the same time, GJW holds primary responsibility for the basic components of the employee relationship, such as hiring, compensation and benefits.

C. The Regional Director’s Decision Reflects the Application of the Board’s Joint Employment Standard Prior to BFI.

Despite the evidence set forth above that ACECO influenced and controlled GJW employees with respect to discharge, hiring, supervision, and wages, the Regional Director found that evidence of ACECO’s influence was not probative of joint-employer status for reasons that are directly contrary to the Board’s overruling of the Board’s narrow precedents that preceded its opinion in *BFI*. For instance, the Regional Director found that the example of Alvaro Martinez, who was discharged by GJW after receiving a negative report from ACECO, was not probative because of questions regarding whether GJW or ACECO was truly responsible for Martinez’s termination. Essentially, the Regional Director is objecting that the Martinez example does not clearly show that ACECO has direct and immediate power to

discharge GJW employees. *BFI*, however, makes clear that it does not matter whether a putative joint employer's control is indirect or mediated, as opposed to immediate and direct. Yet the Regional Director disregarded this guidance from *BFI*.

Similarly, the Regional Director found that Campos' testimony regarding ACECO's assignment of daily tasks was not probative because "the record fails to show that ACECO's supervision included showing the GJW employees how to work." DDE at 12. The demand for evidence that a putative joint employer must direct how an employee works arises from *G. Wes Limited Co.*, 309 NLRB 225, 226 (1992), an authority that is progeny of *Laerco* and was rejected by the Board in *BFI*.

II. THE REGIONAL DIRECTOR'S FINDING THAT ACECO DOES NOT CO-DETERMINE THE TERMS AND CONDITIONS OF EMPLOYMENT OF GJW EMPLOYEES IS CLEARLY ERRONEOUS.

The Regional Director's finding that ACECO does not co-determine the terms and conditions of employment of GJW employees is clearly erroneous. In addition to the overwhelming evidence discussed above, the Regional Director also failed to even acknowledge additional evidence put forth by the Petitioner. Lopez testified that ACECO can cause GJW to move GJW employees from one job to another. (R. 45:24-46:8; Ex. P-5.) ACECO also frequently requests specific GJW employees by name to be retained on a project, with other employees being laidoff. (R. 57:5-9; 61:5-20; 91:24-92:12; Ex. P-5; Ex. P-6 at 23.) ACECO also may request GJW employees by name. (R. 95:6-25; 104:12-105:4.) On occasion, ACECO personnel moved GJW employees without the knowledge of GJW's management. (R. 58:24-59:17; Ex. P-5.)

ACECO also has authority to transfer GJW employees from lead to asbestos work. (R. 87:10-89:18; Ex. P-6 at 19.). In one instance, the GJW COO asked the ACECO supervisors where they, the ACECO supervisors, would transfer the GJW employee. (Ex. P-6 at 19.) When

the ACECO supervisors told the GJW COO where the employees would be placed, the GJW COO responded, “Okay, Got it. Perfect.” (Ex. P-5 at 19.) Lopez confessed that he was confused by the email. (R. 89: 6-10.) The Regional Director appears to have ignored and otherwise failed to comment on this evidence.

In addition, the Regional Director’s decision contains contradictory findings with respect to ACECO’s influence over GJW’s employees’ wages. The Regional Director rejected Local 11’s argument that ACECO co-determined GJW employees’ wages because ACECO had to agree to a reimbursement rate for wages paid by GJW. The Regional Director’s rejection of this argument appears to be based upon testimony from GJW’s president Larry Lopez that “GJW employees had the power to individually negotiate for a higher wage.” DDE at 11. However, later in the DDE the Regional Director contradicted this conclusion by finding that “GJW pays its employees working at ACECO sites based on the negotiated contract rates with ACECO. As a result, the wages GJW employees receive while on ACECO sites may vary from what they are paid for working on other GJW client sites, even while performing the same type of work.” DDE at 11-12. This latter finding appears to find, in substance, that ACECO exerts an individual influence on GJW employees’ wages, and finding that should have supported a joint employer determination. In addition, the Regional Director ignored evidence that, under GJW’s procedures, ACECO must give approval before employees can work overtime. (R. 71:16-72:25; Ex. P-5.) Based upon these errors, the Regional Director’s determination that ACECO and GJW do not co-determine the terms and conditions of employment for GJW employees should be overturned as clear error.

III. LOCAL 11 CANNOT EFFECTIVELY BARGAIN WITH GJW WITHOUT THE PARTICIPATION OF ACECO.

Based upon all of the evidence of control that ACECO possesses over job assignments, transfers, bill rates, overtime, discipline, and supervision, it is clear that ACECO has a meaningful

role to play in collective bargaining with respect to employees supplied by Green JobWorks. Without ACECO's participation in collective bargaining, it is unclear how the Union could negotiate meaningful provisions regarding neutral and fair referral practices, seniority in layoffs, wages, overtime, discipline, breaks, productivity, or schedule, because ACECO exerts so much influence over all of these issues for Green JobWorks employees. In light of this degree of control, the proper decision under *BFI* is to find the joint-employer status in order to facilitate collective bargaining that will occur in the event that the workers choose collective representation.

CONCLUSION

Following *BFI*, this case offers a clear case of a joint-employer relationship. The Board should amend the Regional Director's Decision and Direction of Election to specify that ACECO and GJW are joint employers. Because the bargaining unit for which the Regional Director ordered an election is identical to the unit that would exist for joint employer ACECO-GJW, however, the Board should affirm appropriateness of the election directed by the Regional Director.

November 4, 2015

Respectfully submitted,

/s/Brian J. Petruska

Brian J. Petruska

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*Attorney to Petitioner Construction & Master
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a copy of the foregoing Request for Review was served on the parties identified below by Electronic Mail:

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/s/Brian J. Petruska
Brian J. Petruska

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

Date Filed

Jun 22, 2015

GREEN JOBWORKS, LLC/ACECO, LLC
(A JOINT EMPLOYER)

Employers

and

CONSTRUCTION AND MASTER LABORERS' LOCAL UNION
NO. 11

Petitioner

Case No. 5-RC-154596

Date Issued 12/07/2015

City Baltimore

State MD

Type of Election:
(Check one:)

- Stipulation
- Board Direction
- Consent Agreement
- RD Direction
Incumbent Union (Code)

(If applicable check either or both:)

- 8(b) (7)
- Mail Ballot

TALLY OF BALLOTS

The undersigned agent of the Regional Director certifies that the results of tabulation of ballots case in the election held in the above case, and concluded on the date indicated above, were as follows:

- 1. Approximate number of eligible voters 134
- 2. Number of Void ballots 2
- 3. Number of Votes cast for PETITIONER 44
- 4. Number of Votes cast for _____ -
- 5. Number of Votes cast for _____ -
- 6. Number of Votes cast against participating labor organization(s) 15
- 7. Number of Valid votes counted (sum 3, 4, 5, and 6) 59
- 8. Number of challenged ballots 18
- 9. Number of Valid votes counted plus challenged ballots (sum of 7 and 8) 77
- 10. Challenges are (not) sufficient in number to affect the results of the election.
- 11. A majority of the valid votes counted plus challenged ballots (Item 9) has (not) been cast for Construction and Master Laborers' Local Union No. 11 affiliated with Laborers' International Union of North America

For the Regional Director Region 5

J. Shen

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For Employers *CSW*

For Petitioner *B...*

For

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

Green JobWorks, LLC Employer and Construction and Master Laborers' Local Union No. 11 Petitioner	Case 05-RC-154596
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CERTIFICATION OF REPRESENTATIVE

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board, it is certified that a majority of the valid ballots has been cast for

Construction and Master Laborers' Local Union No. 11

and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

Unit: All full-time and regular part-time laborers, including demolition and asbestos removal workers, and lead employees employed by Green JobWorks, LLC, and assigned to ACECO, LLC work sites, but excluding office clericals, professionals, confidential employees, managerial employees, guards, and supervisors as defined by the Act.



December 16, 2015

/s/ Charles L. Posner

Charles L. Posner, Regional Director
National Labor Relations Board
Bank of America Center, Tower II
100 South Charles Street, Suite 600
Baltimore, MD 21201

NOTICE OF BARGAINING OBLIGATION

In the recent representation election, a labor organization received a majority of the valid votes cast. Except in unusual circumstances, unless the results of the election are subsequently set aside in a post-election proceeding, the employer's legal obligation to refrain from unilaterally changing bargaining unit employees' terms and conditions of employment begins on the date of the election.

The employer is not precluded from changing bargaining unit employees' terms and conditions during the pendency of post-election proceedings, **as long as** the employer (a) gives sufficient notice to the labor organization concerning the proposed change(s); (b) negotiates in good faith with the labor organization, upon request; and (c) good faith bargaining between the employer and the labor organization leads to agreement or overall lawful impasse.

This is so even if the employer, or some other party, files objections to the election pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board (the Board). If the objections are later overruled and the labor organization is certified as the employees' collective-bargaining representative, the employer's obligation to refrain from making unilateral changes to bargaining unit employees' terms and conditions of employment begins on the date of the election, not on the date of the subsequent decision by the Board or court. Specifically, the Board has held that, absent exceptional circumstances,¹ an employer acts at its peril in making changes in wages, hours, or other terms and conditions of employment during the period while objections are pending and the final determination about certification of the labor organization has not yet been made.

It is important that all parties be aware of the potential liabilities if the employer unilaterally alters bargaining unit employees' terms and conditions of employment during the pendency of post-election proceedings. Thus, typically, if an employer makes post-election changes in employees' wages, hours, or other terms and conditions of employment without notice to or consultation with the labor organization that is ultimately certified as the employees' collective-bargaining representative, it violates Section 8(a)(1) and (5) of the National Labor Relations Act since such changes have the effect of undermining the labor organization's status as the statutory representative of the employees. This is so even if the changes were motivated by sound business considerations and not for the purpose of undermining the labor organization. As a remedy, the employer could be required to: 1) restore the status quo ante; 2) bargain, upon request, with the labor organization with respect to these changes; and 3) compensate employees, with interest, for monetary losses resulting from the unilateral implementation of these changes, until the employer bargains in good faith with the labor organization, upon request, or bargains to overall lawful impasse.

¹ Exceptions may include the presence of a longstanding past practice, discrete event, or exigent economic circumstance requiring an immediate response.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5

Green JobWorks, LLC Employer and Construction and Master Laborers' Local Union No. 11 Petitioner	Case 05-RC-154596
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ORDER REVOKING CERTIFICATION OF REPRESENTATIVE

Following a mail ballot count held December 11, 2015, on December 16, 2015 this office inadvertently issued a Certification of Representative certifying Construction and Master Laborers' Local Union No. 11 as the exclusive collective-bargaining representative in the following appropriate bargaining unit:

Unit: All full-time and regular part-time laborers, including demolition and asbestos removal workers, and lead employees employed by Green JobWorks, LLC, and assigned to ACECO, LLC work sites, but excluding office clericals, professionals, confidential employees, managerial employees, guards, and supervisors as defined by the Act.

Timely objections may be filed until **December 18, 2015**. Accordingly

IT IS ORDERED that the Certification of Representative issued in Case 05-RC-154596 is revoked.



December 17, 2015

/s/ Charles L. Posner

Charles L. Posner, Regional Director
National Labor Relations Board
Bank of America Center, Tower II
100 South Charles Street, Suite 600
Baltimore, MD 21201

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

Green JobWorks, LLC Employer and Construction and Master Laborers' Local Union No. 11 Petitioner	Case 05-RC-154596
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CERTIFICATION OF REPRESENTATIVE

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board, it is certified that a majority of the valid ballots has been cast for

Construction and Master Laborers' Local Union No. 11

and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

Unit: All full-time and regular part-time laborers, including demolition and asbestos removal workers, and lead employees employed by Green JobWorks, LLC, and assigned to ACECO, LLC work sites, but excluding office clericals, professionals, confidential employees, managerial employees, guards, and supervisors as defined by the Act.



December 22, 2015

/s/ Charles L. Posner

Charles L. Posner, Regional Director
National Labor Relations Board
Bank of America Center, Tower II
100 South Charles Street, Suite 600
Baltimore, MD 21201

NOTICE OF BARGAINING OBLIGATION

In the recent representation election, a labor organization received a majority of the valid votes cast. Except in unusual circumstances, unless the results of the election are subsequently set aside in a post-election proceeding, the employer's legal obligation to refrain from unilaterally changing bargaining unit employees' terms and conditions of employment begins on the date of the election.

The employer is not precluded from changing bargaining unit employees' terms and conditions during the pendency of post-election proceedings, **as long as** the employer (a) gives sufficient notice to the labor organization concerning the proposed change(s); (b) negotiates in good faith with the labor organization, upon request; and (c) good faith bargaining between the employer and the labor organization leads to agreement or overall lawful impasse.

This is so even if the employer, or some other party, files objections to the election pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board (the Board). If the objections are later overruled and the labor organization is certified as the employees' collective-bargaining representative, the employer's obligation to refrain from making unilateral changes to bargaining unit employees' terms and conditions of employment begins on the date of the election, not on the date of the subsequent decision by the Board or court. Specifically, the Board has held that, absent exceptional circumstances,¹ an employer acts at its peril in making changes in wages, hours, or other terms and conditions of employment during the period while objections are pending and the final determination about certification of the labor organization has not yet been made.

It is important that all parties be aware of the potential liabilities if the employer unilaterally alters bargaining unit employees' terms and conditions of employment during the pendency of post-election proceedings. Thus, typically, if an employer makes post-election changes in employees' wages, hours, or other terms and conditions of employment without notice to or consultation with the labor organization that is ultimately certified as the employees' collective-bargaining representative, it violates Section 8(a)(1) and (5) of the National Labor Relations Act since such changes have the effect of undermining the labor organization's status as the statutory representative of the employees. This is so even if the changes were motivated by sound business considerations and not for the purpose of undermining the labor organization. As a remedy, the employer could be required to: 1) restore the status quo ante; 2) bargain, upon request, with the labor organization with respect to these changes; and 3) compensate employees, with interest, for monetary losses resulting from the unilateral implementation of these changes, until the employer bargains in good faith with the labor organization, upon request, or bargains to overall lawful impasse.

¹ Exceptions may include the presence of a longstanding past practice, discrete event, or exigent economic circumstance requiring an immediate response.

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

In the Matter of:

GREEN JOBWORKS, LLC/
ACECO, LLC

Employers,

and

Case No.: 05-RC-154596

CONSTRUCTION AND MASTER LABORERS'
LOCAL 11, a/w LABORERS'
INTERNATIONAL UNION OF NORTH AMERICA
(LIUNA)

Petitioner.

* * * * *

GRREN JOBWORKS' REQUEST FOR REVIEW

Green JobWorks, LLC ("GJW"), the Employer, files this Request for Review of the Regional Director's Decision and Direction of Election in this case dated October 21, 2015, which resulted in a Certification of Representative issued on December 22, 2015. As is discussed in greater detail below, the Board should grant review of the decision of the Region because it is: (1) Contrary to the Board's officially reported precedents regarding an appropriate bargaining unit; and (2) the factual findings regarding the reasons articulated by the Regional Director for determining the appropriateness of the unit are clearly erroneous. GJW requests that the Board overrule the Regional Director's decision as to the appropriate bargaining unit and rule that the appropriate bargaining unit should be all laborers and asbestos removal employees who work for GJW at all work locations in the Baltimore/D.C. Metro area and not just those workers

who perform work for one of its contractors on several job sites in the District of Columbia.

STATEMENT OF FACTS

GJW is a temporary staffing agency engaged in the business of providing temporary labor to various construction companies involved in demolition and hazardous material removal (primarily asbestos). GJW provides workers laborers to approximately 15 to 20 client construction companies in the DC/Maryland/Virginia area. Aceco is one of its many customers. At the time of the hearing, GJW was providing such temporary labor to seven different clients. Tr. 201.¹

In order to recruit employees to work for it, GJW primarily relies upon advertisements and word-of-mouth-referrals. All applicants for employment must pass a drug-screening exam by GJW. If an applicant is applying for a demolition position, the applicant must also pass a safety and general knowledge test for demolition. After the drug-screening exam and the general knowledge test have been successfully completed, the individual fills out an application, and if hired, GJW enters the individual's information into its centralized database until a position becomes available. Once a position becomes available, GJW reviews information in its database and contacts employees in its database considering several factors, primarily overall seniority with the company and prior performance. Individuals in the database have the option to accept or reject a position offered, and there is no requirement that an employee must continue working for GJW if a position is accepted. When an employee

¹ 'Tr.' refers to the transcript of the hearing.

accepts a position, GJW pays the employee a rate based on the wage range of the individual's job classification and the amount it is able to bill to the client.

When employees are hired, they are placed in a single database maintained by GJW. GJW employees are not assigned to particular client of GJW. When positions are needed to be filled, GJW's staffing manager and staffing coordinator use the database to assign available work to employees in the database. Tr. 31, 35, 210-11, 216-17. There is was no consideration given to what clients the employee had, if ever, worked for in the past. As testified to by GJW's President:

Q. The fact that that individual has or has not worked for a given client in the past, is that determinative as to whether that individual will be assigned to that client?

A. No, the priority would be, you know, first one on the bench, we want to get you back to work; do you have the skill sets? It's kind of you keep going down the list. It's nice to have other factors, but those two are the key. It doesn't matter -- if you work for the client in another function and you don't have the skill set for this project, I'm not going to send you back.

Q. Are any of your employees assigned, specifically assigned to a specific client?

A. No, that would be impossible to manage.

Q. So then is it routine for your employees to work for --over their tenure with you, to work for a number of different clients?

A. Yes.

Tr. 212-13.

And depending on client needs, GJW frequently moves it workers around to different sites for its various clients. For example, at the time of the hearing, GJW was providing employees to Aceco on several projects in the District of Columbia. At the time of the hearing, there were anywhere between 15 to 35 positions being filled by GJW for Aceco projects. During the one week pay period immediately prior the filing of the petition, those positions were filled by no fewer than 45 different individuals from GJW's database. Board Exhibit. 3. During the previous five week period, those Aceco

positions were filled by a total of 102 different individuals from GJW's database who at some time during that period performed work on an Aceco site. GJW Exhibit 4. And during the year immediately prior to the petition, the Aceco positions were filled by a total of 273 different individuals from GJW's database who at some time during that period performed work on an Aceco site. GJW Exhibit 5.

All GJW employees are subject to the same employee database, same employee handbook, same policies and procedures, same wage range scales, same benefits, same hiring procedures and requirements, same safety training, same holidays, and are subject to the same disciplinary procedures. All employees are invited to GJW social events and all employees are required to attend periodic meetings at GJW office. Tr. 204-05, 206, 209-11, 227-28.

GJW also provides common supervision for its employees who are assigned to its clients. GJW's field supervisor, Juan Rodriguez, oversees all of the active job sites for all of GJW's clients. Tr. 30, 229-30. He is recognized by all GJW employees as the person in charge of GJW's field personnel. GJW also has crew leaders at its individual sites who report directly to Rodriguez. Tr. 31, 38, 216. The crew leaders maintain, verify and transmit time records of GJW employees for GJW's payroll, act as a liason between GJW's clients' supervision and the GJW workers, inform GJW's office or GJW's field superintendent of any staffing problems on the job, oversee any injuries to GJW employee, and attend job site meetings. Tr. 214-16.

THE REGIONAL DIRECTOR'S DECISION

Despite the overwhelming evidence showing a community of interest of all GJW's employees regardless of the specific clients they were assigned to at any given time,

the Regional Director ruled that the appropriate unit in this case should be limited to the GJW's employees employed on Aceco sites. In doing so, the Regional Director relied on two trivial factors, both of which are flawed factually and legally. First, he concluded that despite the record evidence that GJW in fact had crew leaders at all of its sites for all of its clients, he ruled that the mere fact that the crew leader positions were not identified in GJW's agreements with its other contractors provided a basis to distinguish GJW's employees working at Aceco from the rest of all its employees. Decision at p. 15. Second, and with no record evidence to support his conclusion, the Regional Director found, despite record evidence to the contrary, that GJW pays its employees "based on the negotiated contract rates with ACECO" and further speculated that that the rates GJW paid to its employees assigned to Aceco projects could differ from the rates GJW paid to employees assigned to other contractors. Decision at p. 15. According to the Regional Director, "these variations in supervisory structure and potential wage for similar work cut against the argument of an overwhelming community of interest demanding inclusion in the readily identifiable unit." Decision at p. 16.

THE REGIONAL DIRECTOR'S DECISION IS NOT SUPPORTED BY THE RECORD
EVIDENCE AND IS CONTRARY TO BOARD PRECEDENT

To determine whether the proposed unit is an appropriate unit, the Board's focus is on whether the employees share a community of interest. *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No.83, slip op. at 14 (2011), citing *NLRB v. Action Automotive, Inc.*, 469 U.S. 490, 491 (1985). In determining whether employees in a proposed unit share a community of interest, the Board examines the following factors:

1. whether the employees are organized into a separate department;

2. whether employees have distinct skills and training;
3. whether employees have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications;
4. whether employees are functionally integrated with the Employer's other employees;
5. whether employees have frequent contact with other employees;
6. whether employees interchange with other employees;
7. whether employees have distinct terms and conditions of employment; and
8. whether employees are separately supervised.

In addition, the Board looks to the "manner in which a particular employer has organized his plant and utilizes the skills of his labor force has a direct bearing on the community of interest among various groups of employees in the plant and is thus an important consideration in any unit determination." *International Paper Co.*, 96 NLRB 295, 298, n.7 (1951).

As noted above, and as acknowledged by the Regional Director, the record evidence shows that all of the factors set forth above point to a community of interest shared by all of GJW's employees and not just those employees who may work at one client's site at one particular project for any given period of time. However, the Regional Director ruled otherwise.

With respect to the Regional Director's reliance on the "supervisory structure", the record is clear that GJW had lead workers at all its sites and that their presence on Aceco sites was no different than their presence on GJW's other client sites. However, that the Aceco agreement specifically mentioned the leads in pay rates for them whereas other GJW agreements with its other clients did not, does not change the fact GJW did indeed have leads on its projects with contractors other than Aceco. Second, even assuming GJW did not have leads on its other jobs as erroneously found by the Regional Director, the record evidence shows that the leads reported directly to GJW's

field supervisor as did all other employees working for GJW regardless of client they were working for. Tr. 216. Thus, the Regional Director's reliance on a "variation in supervisory structure" is clearly erroneous and his conclusion that the purported variation should override the overwhelming community of interest among all of GJW's employees is contrary to Board precedent.

With respect to the Regional Director's reliance on the potential wages paid to GJW employees assigned to Aceco, his finding that GJW pays its employees "based on the negotiated contract rates with ACECO" is belied by the record. With respect to the payment of wages for its employees, GJW's President testified as follows:

Q. Okay. And is it at the hiring process the individuals are assigned a wage rate?

A. No. You're given a wage range because we want to let people know typically where we fluctuate in terms of what range it'll be. So you're in a range basically. X to Y based on your skill set and your job classification.

Tr. 206. He also testified that GJW's clients have no involvement whatsoever in the rates that GJW pays its employees:

Q. And if an individual wants a wage increase --

A. Um-hum.

Q. -- does Green JobWorks decide whether or not they should give an increase?

A. Yeah, we have an evaluation process that we put in place where based on length of service, we'll evaluate someone's performance and if they -- and then let them know where they stand on a particular scale, and based on that, that will determine a wage rate.

Q. Do your clients have any involvement in that?

A. Not in the slightest, no.

Tr. 207.

Thus, the Regional Director factual findings as to the compensation GJW provides its employees to support his conclusion that the unit should be narrowed down

to just those employees employed by Aceco are clearly erroneous and not supported by the record.

As set forth above, the Regional Director's finding that "variations in supervisory structure and potential wage for similar work cut against the argument of an overwhelming community of interest demanding inclusion in the readily identifiable unit" are clearly erroneous, and consistent with Board precedent, the bargaining unit should not be limited to just those employees employed at Aceco jobsites.

CONCLUSION

Based upon the foregoing, the Board should find that the appropriate bargaining unit in this case is all of GJW's asbestos and demolition workers, and not just those limited to Aceco projects.

Respectfully submitted,



Patrick Stewart
Stewart Law, LLC
P.O. Box 6420
Annapolis, Maryland 21401
(410) 934-3222

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of January, 2016, a true and correct copy of the foregoing Request for Review was sent by email to:

Brian J. Petruska, Esq.
LiUNA Mid-Atlantic Regional Organizing Coalition
One Freedom Square
11951 Freedom Drive, Suite 310
Reston, VA 20190
bpetruska@maliuna.org

Maurice Baskin, Esq.
Littler
1150 17th Street, N.W., Suite 900
Washington, DC 20036
MBaskin@littler.com

Charles Posner
Regional Director, Region Five
charles.posner@nlrb.gov



Patrick J. Stewart

Brian Petruska

From: Ximena Patton
Sent: Friday, January 8, 2016 2:09 PM
To: 'Pat Stewart'; 'mbaskin@littler.com'
Subject: Re: Green Job Works, LLC& ACECO, LLC
Attachments: 20160108130629103.pdf

Dear gentlemen,

Please find attached a correspondence sent on behalf of Brian Petruska.
If you have any problems opening the correspondence please feel free to contact me.

Regards,

Ximena Patton
Office Assistant
Mid-Atlantic LiUNA!
11951 Freedom Drive Suite 310
Reston, VA 20191
(703) 860-4194 main
(703) 860-1865 fax

One Freedom Square
11951 Freedom Drive
3rd Floor, Suite 310
Reston, VA 20190
Phone: (703) 860-4194
Fax: (703) 860-1865



LiUNA Mid-Atlantic Regional Organizing Coalition

BRIAN J. PETRUSKA
GENERAL COUNSEL

703-476-2538
bpetruska@maliuna.org

January 8, 2016

BY EMAIL AND REGULAR MAIL

Patrick J. Stewart
Stewart Law, LLC
P.O. Box 6420
Annapolis, MD 21401-0420
Pat@Patlaw.us

Maurice Baskin, Esq.
Littler Mendelson
1150 17th Street, NW, Suite 900
Washington, DC 20036
Mbaskin@littler.com

Re: Green JobWorks, LLC & ACECO, LLC

Dear Messrs. Stewart and Baskin:

On behalf of Construction and Master Laborers' Local Union No. 11, I write to schedule the first bargaining session between the Union and your clients, Green JobWorks, LLC, and ACECO, LLC. The Union's negotiating committee is available to meet any day the week of February 1 through 5, 2016. Please advise us as to what dates and times in that period are convenient for you and your clients.¹

In addition, on behalf of Local 11, I am requesting the following documents from your clients, Green JobWorks, LLC and ACECO, LLC, insofar as responsive materials relate to the bargaining unit of employees for whom Local 11 is the certified exclusive representative pursuant to the NLRB proceeding captioned under Case No. 05-RC-154596:

¹ Please note, the pendency of a Request for Review filed by GreenJob Works, LLC, does not relieve it of its bargaining obligation to Local 11. *See, e.g., Beverly Health & Rehab. Servs., Inc.*, 332 NLRB 347, 359 (2000) (employer "not excused from its bargaining obligation while it pursues an appeal"). *Allstate Insurance Co.*, 234 NLRB 193 (1978) (same).

1. A copy of any contracts, agreements, or memoranda of understanding between GREEN JOBWORKS and the ACECO, LLC, relating to the provision of temporary labor by Green JobWorks to ACECO, LLC.
2. Any written job descriptions for the positions within the bargaining unit.
3. Any written training materials related to the positions within the bargaining unit.
4. A copy of all employee policies, handbooks, manuals, safety guidelines, or written work rules currently applicable to bargaining unit employees.
5. Any documents that set out the regular work hours for employees within the bargaining unit.
6. A roster of all full-time and regular part-time bargaining unit employees, including all employees listed on the Voter Eligibility List that the Employer submitted in Case No. 05-RC-154596, that includes their date of hire and current or most recent rate of pay.
9. A copy of the summary plan description and summary of benefits for any employer-sponsored health plan(s) for which bargaining unit employees are eligible to participate.
10. A statement of the monthly premium that a bargaining unit employee is responsible for paying for either self-only or family coverage by any employer-sponsored health plan(s) for which bargaining unit employees are eligible to participate.
11. A statement of the monthly premium that the employer is responsible for paying for an employee with self-only or family coverage by any employer-sponsored health plan(s) for which bargaining unit employees are eligible to participate.
12. A copy of the summary plan description for any 401(k) or other form of retirement benefit plan(s) for which bargaining unit employees are eligible to participate.
13. A description of any other benefits that the Employer provides to employees, including but not limited to paid vacation, sick days, or holidays, uniforms, gloves, personal protective equipment, access to cleaning products, and job training.
14. A copy of any other contract, policy, or plan that the Employer anticipates will constrain its bargaining options or will constrain the range of proposals from the Union to which it can agree.

The Union requests that the above documents be produced no later than by the first negotiating session between the parties. Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brian J. Petruska", with a long horizontal flourish extending to the right.

Brian J. Petruska

**STEWART LAW, LLC
P.O. Box 6420
Annapolis, Maryland 21401-0420**

Pat@Patlaw.us
410-934-3222

January 18, 2016

Via Email & U.S. Postal Service
Brian J. Petruska, Esq.
LiUNA Mid-Atlantic Regional Organizing Coalition
One Freedom Square
11951 Freedom Drive, Suite 310
Reston, VA 20190

Re: Green JobWorks/ACECO and LiUNA

Dear Mr. Petruska:

On January 12, 2016, I received your correspondence of January 8, 2016 requesting that Green JobWorks and ACECO meet with LiUNA's negotiating committee and commence bargaining.

As you are well aware, Green JobWorks has always taken the position in this case that the only unit appropriate for collective bargaining consists of all of Green JobWorks employees, and not just those who happen to work for a particular Green JobWorks' client (such as ACECO) at any given time. Green JobWorks further believes that the Regional Director committed serious error in directing an election only among those workers who at one time or another had performed work for ACECO within the voting eligibility period. And as you know, Green JobWorks has appealed the Regional Director's decision and the certification of bargaining representative to the full National Labor Relations Board. Consequently, Green JobWorks has no interest in bargaining with the union in a unit that is not appropriate under the law.

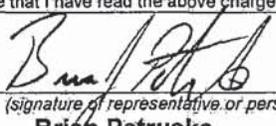
Thank you for your attention. Please let me know if you have any questions.

Very truly yours,



Patrick J. Stewart

Cc: Maury Baskin, Esq.

(11-10) UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD		DO NOT WRITE IN THIS SPACE	
CHARGE AGAINST EMPLOYER		Case D5-CA-168637	Date Filed 1/28/16
INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.			
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer Green JobWorks, LLC		b. Tel. No. 410.864.6194	
		c. Cell No.	
d. Address (street, city, state, ZIP code) 1531 Edgewood St., Ste. P Baltimore, MD 21227		e. Employer Representative Larry Lopez	f. Fax No. 301.588.2541
		g. e-Mail llopez@greenjobworks.com	
		h. Number of workers employed appr. 130	
i. Type of Establishment (factory, mine, wholesaler, etc.) Construction services		j. Identify principal product or service Temporary Staffing	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)			
By letter dated January 18, 2016, the Employer refused to meet and bargain with Construction & Master Laborers' Local Union 11, the certified representative of a bargaining unit of the Employer's employees, after the Union served upon the Employer a request to meet and bargain on or about January 8, 2016.			
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Construction and Master Laborers' Local Union 11			
4a. Address (street and number, city, state, and ZIP code) 3680 Wheeler Ave., Unit 100 Alexandria, VA 22304		4b. Tel No. 703.504.6166	
		4c. Cell No.	
		4d. Fax No. 703.504.6168	
		4e. e-Mail	
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Laborer's International Union of North America			
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.			Tel No. 703-476-2538
By		Brian Petruska, Counsel	Office, if any, Cell No.
	(signature of representative or person making charge) Brian Petruska	(Print/type name and title or office, if any)	Fax No. 703-860-1865
	11951 Freedom Drive, Rm. 310, Reston, VA 20190 (Address)	1/28/2016 (date)	e-Mail bpetruska@maliuna.org

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. §151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

IO: 1/28/2016



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, SUITE 600
BALTIMORE, MD 21201

Agency Website: www.nlr.gov
Telephone: (410) 962-2822
Fax: (410) 962-2198



Download
NLRB
Mobile App

January 29, 2016

Mr. Larry Lopez
Green JobWorks, LLC
1531 South Edgewood Street
Suite P
Baltimore, MD 21227-1138

Re: Green JobWorks, LLC
Case 05-CA-168637

Dear Mr. Lopez:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Paul Veneziano whose telephone number is (410) 962-2740. If this Board agent is not available, you may contact Supervisory Field Examiner Emily N. Hunt whose telephone number is (410) 962-2864.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent.

Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Charles L. Posner
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

CASE NUMBER

05-CA-168637

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**

[] CORPORATION [] LLC [] LLP [] PARTNERSHIP [] SOLE PROPRIETORSHIP [] OTHER (Specify)

3. IF A CORPORATION or LLCA. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): [] CALENDAR YR [] 12 MONTHS or [] FISCAL YR (FY dates)

YES NO

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$ _____C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$ _____F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____H. **Gross Revenues** from all sales or performance of services (**Check the largest amount**):
[] \$100,000 [] \$250,000 [] \$500,000 [] \$1,000,000 or more If less than \$100,000, indicate amount.I. **Did you begin operations within the last 12 months?** If yes, specify date: _____**10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**

[] YES [] NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GREEN JOBWORKS, LLC

Charged Party

and

**CONSTRUCTION AND MASTER LABORERS'
LOCAL UNION NO. 11**

Charging Party

Case 05-CA-168637

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on January 29, 2016, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Mr. Larry Lopez
Green JobWorks, LLC
1531 South Edgewood Street
Suite P
Baltimore, MD 21227-1138

January 29, 2016

Date

Jacqueline Denegal, Designated Agent of
NLRB

Name

/s/ Jacqueline Denegal

Signature

From: [Pat Stewart](#)
To: [Veneziano, Paul](#)
Subject: RE: 05-CA-168637 - Green JobWorks, LLC
Date: Tuesday, February 09, 2016 11:25:31 AM

Got it, thanks. I will enter my appearance this morning. Has the union provided you with evidence?

Patrick J. Stewart
Stewart Law, LLC
P.O. Box 6420
Annapolis, MD 21401-0420
410-934-3222
e-mail: Pat@Patlaw.us

From: Veneziano, Paul [mailto:Paul.Veneziano@nlrb.gov]
Sent: Tuesday, February 09, 2016 10:34 AM
To: Pat Stewart <pat@patlaw.us>
Subject: 05-CA-168637 - Green JobWorks, LLC

Pat,

I hope this e-mail finds you well. Based on your voice mail message indicating that you will represent Green JobWorks, LLC in this matter, I have attached a copy of the charge. Please let me know if you have any difficulty opening the file.

Best Regards,

Paul Veneziano
Field Attorney
National Labor Relations Board
Region Five
Bank of America Center, Tower Two
100 S. Charles Street
Baltimore, MD 21201
Phone: (410) 962-2740
Fax: (410) 962-2198

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GREEN JOBWORKS, LLC/ACECO, LLC
(A JOINT EMPLOYER)
Employers

and

Case 05-RC-154596

CONSTRUCTION AND MASTER LABORERS'
LOCAL UNION NO. 11
Petitioner

ORDER

The Petitioner's Request for Review of the Regional Director's Decision and Direction of Election is granted as it raises substantial issues warranting review. Green JobWorks, LLC's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.

KENT Y. HIROZAWA, MEMBER

LAUREN McFERRAN, MEMBER

MEMBER MISCIMARRA, dissenting.

Contrary to my colleagues, I would deny the Petitioner's Request for Review of the Regional Director's Decision and Direction of Election. The Regional Director applied the standard recently announced in *BFI Newby Island Recyclery*, 362 NLRB No. 186 (2015), and found that the Petitioner failed to establish a joint-employer relationship between Green JobWorks, LLC (Green JobWorks) and ACECO, LLC. As explained in the *BFI* dissenting opinion jointly authored by former Member Johnson and me, I would adhere to precedent requiring proof that a putative joint employer actually exercises "direct and immediate" control over the essential terms and conditions of employment of individuals in the petitioned-for bargaining unit in a manner that is neither "limited" nor "routine." In my view, the Petitioner has failed to raise a substantial issue warranting review under the pre-*BFI* precedent.

Conversely, I believe there is a substantial issue regarding Regional Director's finding that it is appropriate to have a bargaining unit limited to the Green JobWorks demolition and asbestos-removal employees who are assigned to ACECO projects, excluding all other Green JobWorks demolition and asbestos-removal employees. The record indicates that all of these employees perform similar work, have similar skills, are subject to common employment policies, and receive the same benefits. For the reasons I stated in *Macy's, Inc.*, 361 NLRB No. 4, slip op. at 22-33 (2014) (Member Miscimarra, dissenting), I would apply the Board's traditional standards when resolving the unit-appropriateness issue, not the "overwhelming community of interest" standard set forth in *Specialty Healthcare and Rehabilitation Center of*

Mobile, 357 NLRB No. 83 (2011). Accordingly, I would grant the Request for Review filed by Green JobWorks regarding the appropriateness of the bargaining unit.

PHILIP A. MISCIMARRA, MEMBER

Dated, Washington, D.C., March 8, 2016.

One Freedom Square
11951 Freedom Drive
3rd Floor, Suite 310
Reston, VA 20190
Phone: (703) 860-4194
Fax: (703) 860-1865



LIUNA Mid-Atlantic Regional Organizing Coalition

BRIAN J. PETRUSKA
GENERAL COUNSEL

703-476-2538
bpetruska@maliuna.org

September 1, 2017

BY NLRB E-FILE

Gary Shinnors
Executive Secretary
National Labor Relations Board
1015 Half Street SE
Washington DC 20570-0001

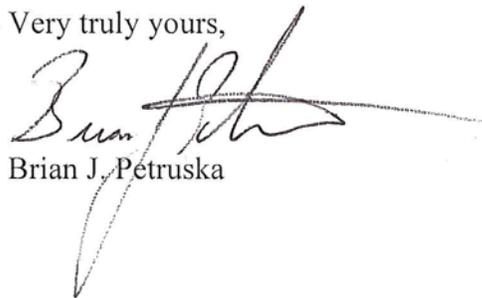
Re: *Green JobWorks, LLC/ACECO, LLC*, Case No. 05-RC-154596

Dear Executive Secretary Shinnors:

I represent the Petitioner, Construction and Master Laborers' Local Union No. 11, LIUNA, in the above-referenced proceeding. Based upon the extensive passage of time since June 22, 2015, when the original petition was filed, the Union hereby requests to withdraw its request for review, filed on November 4, 2015, which was granted by the Board on March 8, 2016.

Thank you for your attention to this matter.

Very truly yours,



Brian J. Petruska

cc: Maurice Baskin, Esq.
Patrick Stewart, Esq.
Charles Posner, Esq., Regional Director

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a copy of the foregoing Request for Review was served on the parties identified below by Electronic Mail:

Maurice Baskin, Esq.
Littler Mendelson
1150 17th Street, NW, Suite 900
Washington, DC 20036
Mbaskin@littler.com

Patrick J. Stewart
Stewart Law, LLC
P.O. Box 6420
Annapolis, MD 21401-0420
Pat@Patlaw.us

Charles Posner, Esq.
Regional Director
Region 5, NLRB
100 S. Charles St., 6th Floor
Baltimore, Maryland 21201
charles.posner@nrlb.gov

/s/Brian J. Petruska
Brian J. Petruska



United States Government
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE EXECUTIVE SECRETARY
1015 HALF STREET, SE
WASHINGTON DC 20570

September 7, 2017

Brian Petruska
LIUNA
One Freedom Square
11951 Freedom Drive
3rd Fl, Suite 310
Reston, VA 20190

Re: Green JobWorks, LLC/ACECO, LLC
Case 05-RC-154596

Dear Mr. Petruska:

This is in response to the Petitioner's request to withdraw its request for review, which was originally filed on November 4, 2015. The request to withdraw is **granted**, and the Board will take no further action on this case.

Very truly yours,

/s/ Farah Z. Qureshi
Associate Executive Secretary

cc: Parties

From: [Brian Petruska](#)
To: [Veneziano, Paul](#)
Subject: Fwd: Green JobWorks, LLC
Date: Wednesday, October 11, 2017 1:02:51 PM

Paul,

To date, I have not received a response to the email below.

Brian J. Petruska
General Counsel & Administrator
LIUNA Mid-Atlantic Regional Organizing Coalition
11951 Freedom Drive, Rm. 310
Reston, Virginia 20190
(tel) [703.860.4194](tel:703.860.4194)
(fax) [703.860.1865](tel:703.860.1865)

----- Forwarded message -----

From: **Brian Petruska** <bpetruska@maliuna.org>
Date: Wed, Oct 4, 2017 at 9:20 AM
Subject: Green JobWorks, LLC
To: Pat Stewart <pat@patlaw.us>

Pat,

I'm sure you've seen that the Union withdrew its Request for Review. Please let me know whether now, with the change in circumstance, your Client is willing to meet with the Union to work out an agreement covering Green JobWorks' ACECO work. If so, we would be interested in meeting on the week of October 18, 2017.

Thank you,

Brian J. Petruska
General Counsel & Administrator
LIUNA Mid-Atlantic Regional Organizing Coalition
11951 Freedom Drive, Rm. 310
Reston, Virginia 20190
(tel) [703.860.4194](tel:703.860.4194)
(fax) [703.860.1865](tel:703.860.1865)

From: [Brian Petruska](#)
To: [Veneziano, Paul](#)
Subject: Fwd: Green JobWorks, LLC
Date: Monday, October 16, 2017 12:34:04 PM

Paul,

Please see Green JobWorks' response to the Union's request to bargaining below.

Brian J. Petruska
General Counsel & Administrator
LIUNA Mid-Atlantic Regional Organizing Coalition
11951 Freedom Drive, Rm. 310
Reston, Virginia 20190
(tel) 703.860.4194
(fax) 703.860.1865

----- Forwarded message -----

From: **Pat Stewart** <pat@patlaw.us>
Date: Mon, Oct 16, 2017 at 12:32 PM
Subject: RE: Green JobWorks, LLC
To: Brian Petruska <bpetruska@maliuna.org>

Brian- Green JobWorks continues to believe that the bargaining unit in the case is not appropriate. It therefore declines your offer to bargain. Pat.

*Patrick J. Stewart
Stewart Law, LLC*

P.O. Box 6420

Annapolis, MD 21401-0420

Office: [410-934-3222](tel:410-934-3222)

From: Brian Petruska [mailto:bpetruska@maliuna.org]
Sent: Wednesday, October 04, 2017 9:21 AM
To: Pat Stewart <pat@patlaw.us>
Subject: Green JobWorks, LLC

Pat,

I'm sure you've seen that the Union withdrew its Request for Review. Please let me know whether now, with the change in circumstance, your Client is willing to meet with the Union to work out an agreement covering Green JobWorks' ACECO work. If so, we would be interested in meeting on the week of October 18, 2017.

Thank you,

Brian J. Petruska

General Counsel & Administrator

LIUNA Mid-Atlantic Regional Organizing Coalition

[11951 Freedom Drive, Rm. 310](#)

[Reston, Virginia 20190](#)

(tel) [703.860.4194](#)

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

GREEN JOBWORKS, LLC

and

Case 5-CA-168637

CONSTRUCTION AND MASTER LABORERS'
LOCAL UNION NO. 11, A/W LABORERS'
INTERNATIONAL UNION OF NORTH AMERICA
(LIUNA)

COMPLAINT AND NOTICE OF HEARING

This Complaint is based on a charge filed by Construction and Master Laborers' Local Union No. 11, a/w Laborers' International Union of North America (LIUNA) ("the Union"). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Green JobWorks, LLC ("Respondent") has violated the Act as described below.

1. The charge in this proceeding was filed by the Union on January 28, 2016, and a copy was served on Respondent by U.S. mail on January 29, 2016.

2. (a) At all material times, Respondent has been a limited liability company with an office and place of business in Baltimore, Maryland, and has been a temporary staffing agency engaged in the business of demolition and environmental remediation, including asbestos remediation.

(b) In conducting its operations during the 12-month period ending September 30, 2017, Respondent performed services valued in excess of \$50,000 in states other than the State of Maryland.

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

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

4. At all material times, an unnamed agent held the position of Respondent's counsel and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

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

All full-time and regular part-time laborers, including demolition and asbestos removal workers, and lead employees employed by Green JobWorks, LLC, and assigned to ACECO, LLC work sites; but excluding office clericals, professionals, confidential employees, managerial employees, guards, and supervisors as defined by the Act.

(b) On June 11, 2015, the Union filed a petition for a representation election, and on October 21, 2015, the undersigned issued a Decision and Direction of Election.

(c) On November 4, 2015, the Union filed a Request for Review of the Regional Director's Decision and Direction of Election.

(d) On December 22, 2015, the undersigned, as authorized by the Board, certified the Union as the exclusive collective-bargaining representative of the Unit.

(e) On January 5, 2016, Respondent filed a Request for Review of the Regional Director's Decision and Certification of Representative certifying the Union as the exclusive collective-bargaining representative of the Unit.

(f) On March 8, 2016, the Board granted the Union's Request for Review and denied Respondent's Request for Review.

(g) On September 1, 2017, the Union requested to withdraw its Request for Review.

(h) On September 7, 2017, the Board granted the Union's request to withdraw its Request for Review.

(i) At all times since December 22, 2015, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

6. (a) About January 8, 2016, the Union, by letter and e-mail, requested that Respondent bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

(b) About October 4, 2017, the Union, by e-mail, requested that Respondent bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

(c) Since about January 18, 2016, Respondent has failed and refused to bargain with the Union as the exclusive collective-bargaining representative of the Unit.

7. By the conduct described above in paragraph 6, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

8. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

As part of the remedy for the unfair labor practices alleged above in paragraphs 6 and 7, the General Counsel seeks an Order requiring Respondent to bargain in good faith with the Union, on request, for the period required by *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962), as the recognized bargaining representative in the appropriate unit.

The General Counsel seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondents are notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, they must file an answer to the complaint. The answer must be **received by this office on or before November 8, 2017, or postmarked on or before November 7, 2017.** Respondents should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon

(Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on a date and at a place to be determined a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondents and any other party to this proceeding have the right to

appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Baltimore, Maryland this 25th day of October 2017.

(SEAL)

/s/ CHARLES L. POSNER

Charles L. Posner, Regional Director
National Labor Relations Board, Region 5
Bank of America Center - Tower II
100 South Charles Street, Suite 600
Baltimore, MD 21201

Attachments

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

GREEN JOBWORKS, LLC

and

Case 5-CA-168637

CONSTRUCTION AND MASTER LABORERS'
LOCAL UNION NO. 11, A/W LABORERS'
INTERNATIONAL UNION OF NORTH AMERICA
(LIUNA)

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing
(with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **October 25, 2017**, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

CERTIFIED MAIL NO.
7015 0640 0003 0684 8859

PATRICK J. STEWART, ESQ.
STEWART LAW, LLC
P.O. BOX 6420
ANNAPOLIS, MD 21401-0420

MR. LARRY LOPEZ
SUITE P
GREEN JOBWORKS, LLC
1531 SOUTH EDGEWOOD STREET
BALTIMORE, MD 21227-1138

BRIAN J. PETRUSKA, ESQ.
LABORER'S INT'L. UNION OF NORTH
AMERICA, MID-ATLANTIC REGION
11951 FREEDOM DR., ROOM 310
RESTON, VA 20190-5686

CONSTRUCTION LABORERS' LOCAL
UNION NO. 710
3680 WHEELER AVENUE, UNIT 100
ALEXANDRIA, VA 22304-6403

October 25, 2017

Monica Graves
Designated Agent of NLRB

Date

Name

Monica Graves

Signature

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

GREEN JOBWORKS, LLC &

Respondent,

and

Case No. 05-CA-168637

CONSTRUCTION AND MASTER
LABORERS' LOCAL UNION 11,

Charging Party.

**GREEN JOBWORKS, LLC's ANSWER AND
AFFIRMATIVE DEFENSES TO COMPLAINT**

Respondent Green JobWorks, LLC ("GJW"), by and through its undersigned counsel, submits this Answer and Affirmative Defenses to the Complaint and Notice of Hearing ("Complaint") dated October 25, 2017 in the above-captioned matter as follows:

Paragraph 1. GWJ is without knowledge or sufficient information to form a belief as to the truth of the allegation that a charge was filed with the Region and it denies that it was ever served with a copy of the charge as alleged in Paragraph 1 of the Complaint.

Paragraph 2 (a). GJW admits the allegations contained in Paragraph 2 (a) of the Complaint.

Paragraph 2 (b). GJW admits the allegations contained in Paragraph 2 (b) of the Complaint.

Paragraph 2 (c). GJW admits the allegations set forth in Paragraph 2 (c) of

the Complaint.

Paragraph 3. GJW admits the allegations set forth in Paragraph 3 of the Complaint.

Paragraph 4. GJW is without knowledge or sufficient information to form a belief as to the truth of the allegations contained in Paragraph 4 of the Complaint and therefore denies them.

Paragraph 5 (a). GJW denies the allegations set forth in Paragraph 5 of the Complaint.

Paragraph 5 (b). GJW admits the allegations set forth in Paragraph 5 (b) of the Complaint.

Paragraph 5 (c). GJW admits the allegations set forth in Paragraph 5 (c) of the Complaint.

Paragraph 5 (d). GJW admits the allegations set forth in Paragraph 5 (d) of the Complaint.

Paragraph 5 (e). GJW admits the allegations set forth in Paragraph 5 (e) of the Complaint.

Paragraph 5 (f). GJW admits the allegations set forth in Paragraph 5 (f) of the Complaint.

Paragraph 5 (g). GJW admits the allegations set forth in Paragraph 5 (g) of the Complaint.

Paragraph 5 (h). GJW admits the allegations set forth in Paragraph 5 (h) of the Complaint.

Paragraph 5 (i). GJW denies the allegations set forth in Paragraph 5 (i) of

the Complaint as the Regional Director erred by determining the bargaining unit set forth in Paragraph 5 (a) above to be appropriate.

Paragraph 6 (a). GJW admits the allegations set forth in Paragraph 6 (a) of the Complaint.

Paragraph 6 (b). GJW admits the allegations contained in Paragraph 6 (b) of the Complaint.

Paragraph 6 (c). GJW admits the allegations set forth in Paragraph 6 (c) of the Complaint.

Paragraph 7. GJW denies the allegations set forth in Paragraph 7 of the Complaint.

Paragraph 8. GJW denies the allegations set forth in Paragraph 8 of the Complaint.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.
2. The alleged violations contained in the Complaint are insufficient to state a violation of the Act.
3. The Complaint has been issued, in whole or in part, without substantial justification.
4. The bargaining unit certified by the Region on December 22, 2015, is not appropriate under the Act.
5. GJW did not violate the National Labor Relations Act in any way.
6. GJW reserves the right to raise additional defenses which may arise during the pendency of this action.

WHEREFORE, Respondent Green JobWorks, LLC requests that the Administrative Law Judge enter an Order dismissing the Complaint with prejudice and entering judgment in favor of GJW; and provide Respondent with any other relief that is just and proper.

Respectfully submitted,



Patrick J. Stewart
Stewart Law, LLC
P.O. Box 6420
Annapolis, Maryland 21401
(410) 934-3222
pat@patlaw.us
Counsel for Green JobWorks, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2017, a true and correct copy of the foregoing Green JobWorks, LLC's Answer and Affirmative Defenses to Complaint was sent by email and regular mail, postage prepaid, to:

Brian J. Petruska, Esq.
LiUNA Mid-Atlantic Regional Organizing Coalition
One Freedom Square
11951 Freedom Drive, Suite 310
Reston, VA 20190
bpetruska@maliuna.org
Counsel for Charging Party



Patrick J. Stewart



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, SUITE 600
BALTIMORE, MD 21201

Agency Website: www.nlr.gov
Telephone: (410) 962-2822
Fax: (410) 962-2198



Download
NLRB
Mobile App

March 30, 2017

Mr. Bob Gurecki, President
Retro Environmental, Inc.
5301 Enterprise Street, Suite D
Sykesville, MD 21784-9323

Mr. Larry Lopez, President
Green JobWorks, LLC
1531 South Edgewood Street, Suite P
Baltimore, MD 21227-1138

Re: Retro Environmental, Inc. / Green
JobWorks, LLC
Case 05-CA-195809

Dear Mr. Gurecki and Mr. Lopez:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner Ximena P. Molano whose telephone number is (202) 273-2926. The mailing address is 1015 Half Street, S.E., Washington, DC 20570-0001. If this Board agent is not available, you may contact Resident Officer Mark B. Kalaris whose telephone number is (202) 208-3076.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as

soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly. **Due to the nature of the allegations in the enclosed unfair labor practice charge, we have identified this case as one in which injunctive relief pursuant to Section 10(j) of the Act may be appropriate.** Therefore, in addition to investigating the merits of the unfair labor practice allegations, the Board agent will also inquire into those factors relevant to making a determination as to whether or not 10(j) injunctive relief is appropriate in this case. Accordingly, please include your position on the appropriateness of Section 10(j) relief when you submit your evidence relevant to the investigation.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

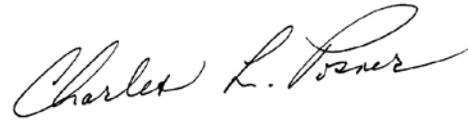
We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Charles L. Posner". The signature is written in a cursive style with a large, looping initial "C".

Charles L. Posner
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**RETRO ENVIRONMENTAL, INC. / GREEN
JOBWORKS, LLC**

Charged Party

and

**CONSTRUCTION AND MASTER LABORERS'
LOCAL UNION 11**

Charging Party

Case 05-CA-195809

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on March 30, 2017, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Mr. Bob Gurecki, President
Retro Environmental, Inc.
5301 Enterprise Street, Suite D
Sykesville, MD 21784-9323

Mr. Larry Lopez, President
Green JobWorks, LLC
1531 South Edgewood Street, Suite P
Baltimore, MD 21227-1138

March 30, 2017

Date

Grace Piazza, Designated Agent of NLRB

Name

/s/ Grace Piazza

Signature

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

RETRO ENVIRONMENTAL, INC. / GREEN
JOBWORKS, LLC, JOINT EMPLOYERS

and

Case 5-CA-195809

CONSTRUCTION AND MASTER LABORERS'
LOCAL 11, A/W LABORERS' INTERNATIONAL
UNION OF NORTH AMERICA (LIUNA)

COMPLAINT AND NOTICE OF HEARING

This Complaint is based on a charge filed by Construction and Master Laborers' Local 11, a/w Laborers' International Union of North America (LIUNA) ("the Union"). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Retro Environmental, Inc. ("Retro") and Green JobWorks, LLC ("GJW"), joint employers (collectively, "Respondents") have violated the Act as described below.

1. The charge in this proceeding was filed by the Union on March 27, 2017, and a copy was served on Retro and GJW by U.S. mail on March 30, 2017.

2. (a) At all material times, Retro has been a corporation with an office and place of business in Sykesville, Maryland, and has been engaged in the business of providing demolition and environmental services to private and governmental entities, including at sites in Washington, D.C.

(b) At all material times, GJW has been a limited liability corporation with an office and place of business in Baltimore, Maryland, and has been a temporary staffing agency engaged in the business of demolition and environmental remediation, including asbestos remediation.

(c) From about May 1, 2013, through May 1, 2014, Retro and GJW were parties to a contract which provided that GJW was the agent for Retro in connection with hiring employees for its projects located in Washington, D.C., Maryland, and Virginia.

(d) Since about May 1, 2014, Retro and GJW have continued to operate consistent with the contract described above in paragraph 2(c).

(e) At all material times, Retro has possessed control over the labor relations policy of GJW, exercised control over the labor relations policy of GJW, and administered a common labor policy with GJW for the employees of Respondents.

(f) At all material times, Retro and GJW have been joint employers of the employees of Respondents.

(g) In conducting its operations during the 12-month period ending April 30, 2017, Retro performed services valued in excess of \$50,000 in States other than the State of Maryland.

(h) In conducting its operations during the 12-month period ending April 30, 2017, GJW performed services valued in excess of \$50,000 in States other than the State of Maryland.

(i) At all material times, Respondents have been employers engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

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

4. (a) At all material times, an unnamed agent held the position of Retro's counsel and has been an agent of Retro within the meaning of Section 2(13) of the Act).

(b) At all material times, an unnamed agent held the position of GJW's counsel and has been an agent of GJW within the meaning of Section 2(13) of the Act).

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

All full-time and regular part-time laborers, including demolition and asbestos workers, jointly employed by Respondents, excluding office clericals, confidential employees, managerial employees, guards, and supervisors as defined in the Act.

(b) On December 2, 2016, the Board certified the Union as the exclusive collective-bargaining representative of the Unit.

(c) At all times since December 2, 2016, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

6. (a) About March 1, 2017, the Union, by letter and e-mail, requested that Respondents bargain collectively with the Union as the exclusive collective-bargaining representative of the Unit.

(b) Since about March 1, 2017, Retro has failed and refused to bargain with the Union as the exclusive collective-bargaining representative of the Unit.

(c) Since about March 3, 2017, GJW has failed and refused to bargain with the Union as the exclusive collective-bargaining representative of the Unit.

7. By the conduct described above in paragraph 6, Respondents have been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

8. The unfair labor practices of Respondents described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

As part of the remedy for the unfair labor practices alleged above in paragraphs 6 and 7, the General Counsel seeks an Order requiring Respondents to bargain in good faith with the Union, on request, for the period required by *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962), as the recognized bargaining representative in the appropriate unit.

The General Counsel seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondents are notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, they must file an answer to the complaint. The answer must be **received by this office on or before June 7, 2017, or postmarked on or before June 6, 2017.** Respondents should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer

rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on August 29, 2017, at 10:00 a.m., at the Jones Laughlin Conference Room, Suite 3054-A/B, 1015 Half Street, SE, Washington, DC, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondents and any other

party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Baltimore, Maryland this 24th day of May 2017.

(SEAL)

/s/ SEAN R. MARSHALL

Sean R. Marshall, Acting Regional Director
National Labor Relations Board, Region 5
Bank of America Center -Tower II
100 South Charles Street, Suite 600
Baltimore, MD 21201

Attachments

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

RETRO ENVIRONMENTAL, INC.

and

GREEN JOBWORKS, LLC &

Respondents,

Case No. 05-CA-195809

CONSTRUCTION AND MASTER
LABORERS' LOCAL UNION 11,

Charging Party.

**GREEN JOBWORKS, LLC's ANSWER AND
AFFIRMATIVE DEFENSES TO COMPLAINT**

Respondent Green JobWorks, LLC ("GJW"), by and through its undersigned counsel, submits this Answer and Affirmative Defenses to the Complaint and Notice of Hearing ("Complaint") dated May 24, 2017 in the above-captioned matter as follows:

Paragraph 1. GWJ admits the allegations set forth in Paragraph 1 of the Complaint.

Paragraph 2 (a). GJW is without knowledge or sufficient information to form a belief as to the truth of the allegations contained in Paragraph 2 (a) of the Complaint, and therefore denies them.

Paragraph 2 (b). GJW admits the allegations contained in Paragraph 2 (b) of the Complaint.

Paragraph 2 (c). GJW admits that it entered into a contract with Retro in 2013

wherein it agreed to perform asbestos and demolition work for Retro. GJW denies all allegations set forth in Paragraph 2 (c) of the Complaint which are not specifically admitted.

Paragraph 2 (d). GJW denies the allegations set forth in Paragraph 2 (d) of the Complaint.

Paragraph 2 (e). GJW denies the allegations set forth in Paragraph 2 (e) of the Complaint.

Paragraph 2 (f). GJW denies the allegations set forth in Paragraph 2 (f) of the Complaint.

Paragraph 2 (g). GJW is without knowledge or sufficient information to form a belief as to the truth of the allegations contained in Paragraph 2 (g) of the Complaint, and therefore denies them.

Paragraph 2 (h). GJW admits the allegations set forth in Paragraph 2 (h) of the Complaint.

Paragraph 2 (i). GJW admits that it is an employer as alleged in Paragraph 2 (i) of the Complaint. GJW is without knowledge or sufficient information to form a belief as to the truth of the other allegations contained in Paragraph 2 (i) of the Complaint and therefore denies them.

Paragraph 3. GJW admits the allegations set forth in Paragraph 3 of the Complaint.

Paragraph 4 (a). GJW is without knowledge or sufficient information to form a belief as to the truth of the allegations contained in Paragraph 4 (a) of the Complaint and therefore denies them.

Paragraph 4 (b). GJW is without knowledge or sufficient information to form a belief as to the truth of the allegations contained in Paragraph 4 (b) of the Complaint and therefore denies them.

Paragraph 5 (a). GJW denies the allegations set forth in Paragraph 5 (a) of the Complaint.

Paragraph 5 (b). GJW admits that the Regional Director, but not the Board as alleged, certified the union as alleged in Paragraph 5 (b) of the Complaint.

Paragraph 5 (c). GJW admits the allegations set forth in Paragraph 5 (c) of the Complaint.

Paragraph 6 (a). GJW admits the allegations set forth in Paragraph 6 (a) of the Complaint.

Paragraph 6 (b). GJW is without knowledge or sufficient information to form a belief as to the truth of the allegations contained in Paragraph 6 (b) of the Complaint, and therefore denies them.

Paragraph 6 (c). GJW admits the allegations set forth in Paragraph 6 (c) of the Complaint.

Paragraph 7. GJW denies the allegations set forth in Paragraph 7 of the Complaint.

Paragraph 8. GJW denies the allegations set forth in Paragraph 8 of the Complaint.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.
2. The alleged violations contained in the Complaint are insufficient to

state a violation of the Act.

3. The Complaint has been issued, in whole or in part, without substantial justification.

4. The bargaining unit certified by the Region on December 2, 2016, is not appropriate under the Act.

5. GJW was denied due process when the Board decided, sua sponte, that GJW and Retro were joint employers.

6. The Board exceeded its authority by deciding, sua sponte, that GJW and Retro were joint employers.

7. GJW did not violate the National Labor Relations Act in any way.

8. GJW reserves the right to raise additional defenses which may arise during the pendency of this action.

WHEREFORE, Respondent Green JobWorks, LLC requests that the Administrative Law Judge enter an Order dismissing the Complaint with prejudice and entering judgment in favor of GJW; and provide Respondent with any other relief that is just and proper.

Respectfully submitted,



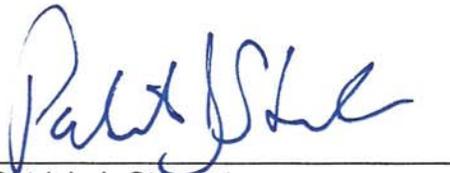
Patrick J. Stewart
Stewart Law, LLC
P.O. Box 6420
Annapolis, Maryland 21401
(410) 934-3222
pat@patlaw.us
Counsel for Green JobWorks, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of June, 2017, a true and correct copy of the foregoing Green JobWorks, LLC's Answer and Affirmative Defenses to Complaint was sent by email and regular mail, postage prepaid, to:

Brian J. Petruska, Esq.
LiUNA Mid-Atlantic Regional Organizing Coalition
One Freedom Square
11951 Freedom Drive, Suite 310
Reston, VA 20190
bpetruska@maliuna.org
Counsel for Charging Party

Neil E. Duke, Esq.
Baker, Donelson
100 Light Street
Baltimore, Maryland 21202
neduke@ober.com
Counsel for Retro Environmental, Inc.



Patrick J. Stewart

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5

GREEN JOBWORKS, LLC

and

Case 5-CA-168637

CONSTRUCTION AND MASTER LABORERS'
LOCAL UNION NO. 11, A/W LABORERS'
INTERNATIONAL UNION OF NORTH AMERICA
(LIUNA)

ERRATUM

In the Complaint and Notice of Hearing that issued on October 25, 2017, on page 2, the date “**June 11, 2015**” in paragraph 5(b) is incorrect. The date should read as follows:
“**June 22, 2015.**”

Please substitute the enclosed page 2 for page 2 of the Complaint and Notice of Hearing that issued on October 25, 2017.

(SEAL)

/s/ SEAN R. MARSHALL

Dated: December 14, 2017

Sean R. Marshall, Acting Regional Director
National Labor Relations Board, Region 5
Bank of America Center - Tower II
100 South Charles Street, Suite 600
Baltimore, MD 21201

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

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

4. At all material times, an unnamed agent held the position of Respondent's counsel and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

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

All full-time and regular part-time laborers, including demolition and asbestos removal workers, and lead employees employed by Green JobWorks, LLC, and assigned to ACECO, LLC work sites; but excluding office clericals, professionals, confidential employees, managerial employees, guards, and supervisors as defined by the Act.

(b) On June 22, 2015, the Union filed a petition for a representation election, and on October 21, 2015, the undersigned issued a Decision and Direction of Election.

(c) On November 4, 2015, the Union filed a Request for Review of the Regional Director's Decision and Direction of Election.

(d) On December 22, 2015, the undersigned, as authorized by the Board, certified the Union as the exclusive collective-bargaining representative of the Unit.

(e) On January 5, 2016, Respondent filed a Request for Review of the Regional Director's Decision and Certification of Representative certifying the Union as the exclusive collective-bargaining representative of the Unit.

UNITED STATES OF AMERICA
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REGION 5

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LOCAL UNION NO. 11, A/W LABORERS'
INTERNATIONAL UNION OF NORTH AMERICA
(LIUNA)

AFFIDAVIT OF SERVICE OF: Erratum

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **December 14, 2017**, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

CERTIFIED MAIL NO.
7012 2210 0001 6440 7335

PATRICK J. STEWART, ESQ.
STEWART LAW, LLC
P.O. BOX 6420
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MR. LARRY LOPEZ
SUITE P
GREEN JOBWORKS, LLC
1531 SOUTH EDGEWOOD STREET
BALTIMORE, MD 21227-1138

BRIAN J. PETRUSKA, ESQ.
LABORER'S INT'L. UNION OF NORTH
AMERICA, MID-ATLANTIC REGION
11951 FREEDOM DR., ROOM 310
RESTON, VA 20190-5686

CONSTRUCTION LABORERS' LOCAL
UNION NO. 710
3680 WHEELER AVENUE, UNIT 100
ALEXANDRIA, VA 22304-6403

December 14, 2017

Date

Monica Graves
Designated Agent of NLRB

Name

Monica Graves

Signature