

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION 34**

**FARERI ASSOCIATES, LP, GREENWICH PARK,
LLC, GREENWICH PREMIER SERVICES
CORP., AND BRENWOOD HOSPITALITY, LLC,
A SINGLE EMPLOYER**

**Cases 01-CA-188158
01-CA-190046
01-CA-191779
01-CA-214016**

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 32BJ**

**MOTION TO REMAND CASE TO THE REGIONAL DIRECTOR
FOR APPROVAL OF NON-BOARD SETTLEMENT AGREEMENT**

The undersigned, pursuant to Section 102.47 of the Board's Rules and Regulations, as amended, hereby files this motion requesting that the Board remand the above-captioned cases to the Acting Regional Director for Region One for the purpose of approving the parties' non-Board settlement agreement.

1. On March 29, 2018, the Acting Regional Director for Region One issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing (herein "Complaint"), which was amended at the subsequent hearing, as described below.

2. The Complaint alleges that Respondent violated Section 8(a)(1) of the Act by: 1) informing former unit employees who were applying for work with Respondent that they could not be hired if they were in a union, or had worked for the predecessor (Affineco); and, 2) informing employees that they could not continue their employment with Respondent because it had been discovered that they had previously been employed by Affineco and/or because of their union membership. The Complaint further alleged that Respondent violated Section 8(a)(3) of the Act by: 1) refusing to hire and/or refusing to consider for hire 14 named former unit employees because of their union affiliation; 2) on or about November 14, 2016, terminating its employee Yndiana Pena about a week after Pena began working for Respondent because her former union affiliation had been discovered; and, 3) two weeks later, on November 30, 2016, terminating its employees Mayra Maurad and Rosalia Bravo-Affon because their prior employment with Affineco and/or their prior union

affiliation had been discovered. The Complaint alleges that but for the above adverse employment actions, Respondent would have employed as a majority of its employees at its facility individuals who were previously employed in the Affineco unit, and therefore, is a successor to Affineco at Respondent's facility. The Complaint also alleges that Respondent violated Section 8(a)(5) of the Act by: 1) on or about November 5, 2016, establishing rates of pay, benefits, hours of work and other terms and conditions of employment for employees in the unit that varied from the terms set forth in the collective bargaining agreement between the Union and Affineco without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct; 2) on or about July 1, 2017, terminating its janitorial employees and subcontracting its janitorial services at its facility to a different contractor, Integrated Building Management (IBM), without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct; and, 3) failing and refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Unit.

3. Administrative Law Judge David I. Goldman heard this matter on August 29-31, September 5 and 6, October 29-31, November 1-2, and December 4, 2018. At the hearing, the Complaint was amended to allege that Respondent further violated Section 8(a)(1) of the Act by: 1) on or about the week of November 7, 2016, interrogating job applicants about their Union and other protected concerted activities; 2) about late November 2016, questioning employees about their union and other protected concerted activities; 3) about late November/early December 2016 questioning employees about the identity of other employees engaged in union and other protected concerted activities; 4) between December 2016 and February 2017, creating the impression among its employees that their union and other protected concerted activities were under surveillance; and 5) interrogating employees about their union membership and activities, and the union activities and membership of other employees.

4. On May 13, 2019, ALJ Goldman issued a Decision and Recommended Order finding that Respondent violated Section 8(a)(1), (3) and (5) of the Act, as alleged. Respondent filed Exceptions to his findings and the case is pending before the Board.

5. The parties have reached a non-Board settlement resolving the issues in the above matter. Specifically, the Respondent and Charging Party Union have agreed that Respondent will make back pay payments in the amount of \$775,000 to the alleged discriminatees and the former bargaining unit employees of Affineco employed at the time Respondent terminated Affineco's contract at its facility referenced in and encompassed by the Complaint, as well as to unit employees employed by Respondent or its contractor IBM thereafter. The parties also agreed that Respondent will immediately bid out the cleaning and janitorial work at its facility where such work was formerly performed by union-represented employees employed by Affineco to a responsible contractor, which must agree to: 1) apply the economic terms of the 2016 Hudson Valley and Fairfield County Contractors' Agreement between the Union and signatory cleaning contractors that perform work in those locations; and 2) offer reinstatement, on the basis of seniority, to the alleged discriminatees named in the Complaint and any former Affineco employees employed at Respondent's facility at the time Respondent terminated its contract with Affineco.

6. This settlement effectuates the purposes and policies of the Act in that it remedies the Complaint allegations consistent with the remedial provisions of Board orders in cases involving such violations. Moreover, it meets the requirements of Independent Stave Co., 287 NLRB 740 (1987). All parties have agreed to the settlement. Respondent has not breached previous settlement agreements resolving unfair labor practice disputes. Based on the above, Counsel for the General Counsel respectfully requests that the Board remand the above-captioned cases to the Acting Regional Director for Region One for the purpose of approving the settlement agreement.

DATED: November 1, 2019.

Respectfully submitted,

Rick Concepcion

Rick Concepcion
Counsel for the General Counsel
National Labor Relations Board
Subregion 34, Region One

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**AFFIDAVIT OF SERVICE OF: MOTION TO REMAND CASE TO THE REGIONAL DIRECTOR
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I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **November 1, 2019**, I served the above-entitled document(s) by **email or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

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November 1, 2019

Date

Elizabeth C. Person, Designated Agent of NLRB

Name

Elizabeth C. Person

Signature