

2229 Associates and Samaroo Management, Petitioner and Service Employees International Union, Local 32E, AFL-CIO. Case AO-320

March 23, 1995

ADVISORY OPINION

BY CHAIRMAN GOULD AND MEMBERS COHEN
AND TRUESDALE

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on February 16, 1995, 2229 Associates (2229) and Samaroo Management (jointly, the Employers), filed a Petition for Advisory Opinion as to whether the Board would assert jurisdiction over their operations. In pertinent part, the petition alleges as follows:

1. A proceeding, Case SU-58858, is currently pending before the New York State Employment Relations Board (NYSERB) in which the Service Employees International Union, Local 32E, AFL-CIO (the Union) claims that 2229 has refused to bargain with the Union in violation of Section 704 of the New York State Labor Relations Act since September 1994, at a residential apartment building owned by 2229 and managed by Samaroo Management, located at 2229 Creston Avenue, Bronx, New York.

2. Samaroo Management supervises and directs the terms and conditions of employment at the building as well as the day-to-day activities of the single employee employed at the building. Samaroo Management also formulates and implements all of the personnel policies applicable to that employee and maintains payroll records for and pays the employee. Samaroo Management and 2229 are jointly controlled and directed by Philip Samaroo, the proprietor and general partner, respectively, of Samaroo Management and 2229.

3. Samaroo Management has gross annual revenues in excess of \$1 million and annually purchases mate-

rials or services valued in excess of \$50,000 directly from outside the State of New York.¹

4. The Employers are unaware whether the Union admits or denies the aforesaid commerce data and the NYSERB has not made any findings with respect thereto.

5. There are no representation or unfair labor practice proceedings involving the Employer pending before the Board.

Although all parties were served with a copy of the Petition for Advisory Opinion, no response was filed.

Having duly considered the matter,² the Board is of the opinion that it would assert jurisdiction over the Employers. It is well established that the commerce data of joint or single employers may be combined for jurisdictional purposes.³ Here, the petition alleges that the Employers are jointly controlled and directed by Philip Samaroo, the proprietor and general partner, respectively, of Samaroo Management and 2229. Thus, given that Samaroo Management's commerce data alone clearly satisfied the Board's jurisdictional standard,⁴ assuming that the Employers are in fact a joint or single employer at the subject building, we find that jurisdiction may properly be asserted over the Employers under the Board's current standards.

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over the Employer.⁵

¹ See *Uptown Associates & Samaroo Management*, 307 NLRB 1286 (1992).

² The Board has delegated its authority in this proceeding to a three-member panel.

³ See *373-381 South Broadway Associates*, 304 NLRB 1108 (1991), and cases cited therein.

⁴ See *Uptown Associates*, *supra*.

⁵ The Board's advisory opinion proceedings under Sec. 102.98(a) are designed primarily to determine whether an employer's operations meet the Board's "commerce" standards for asserting jurisdiction. Accordingly, the instant Advisory Opinion is not intended to express any view whether the Board would certify the Union as representative of the unit involved here under Sec. 9(c) of the Act. See generally Sec. 101.40 of the Board's Rules.