

**Gabo's Cleaners, Inc., Petitioner and Window Cleaner's Union, Local No. 2, Service Employees International Union.** Case AO-322

April 18, 1995

ADVISORY OPINION

BY MEMBERS STEPHENS, BROWNING, AND COHEN

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on March 22, 1995, Gabo's Cleaners, Inc. (the Employer) filed a Petition for Advisory Opinion as to whether the Board would assert jurisdiction over its operations. In pertinent part, the petition alleges as follows:

1. A proceeding, Case SE-58875, is currently pending before the New York State Employment Relations Board (NYSERB) in which the Union is seeking to be certified as the representative for the window cleaners employed by the Employer, excluding all other employees, supervisors, and office employees.

2. The Employer is a cleaning contractor engaged in the business of providing cleaning and maintenance services to office buildings, governmental agency facilities, and other edifices. It is located at 383 Oakley Avenue, Elmont, New York.

3. During the 12-month period preceding the filing of the instant petition, the Employer had gross revenues in excess of \$900,000 and purchased goods, supplies, equipment, and services, valued in excess of \$50,000, which originated outside the State of New York from the following companies: Burke Supplies, Brooklyn, New York (\$40,000); Uneeda Chemicals, Elmont, New York (\$6000); Lednak Industries, New Hyde Park, New York (\$10,000); Mobil Oil Company

(\$10,000); NYNEX (\$8000); and Cellularone (\$10,000).

4. The Union neither admits nor 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 same labor dispute 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,<sup>1</sup> the Board is of the opinion that it would assert jurisdiction over the Employer. The Board has established a standard of \$50,000, direct or indirect inflow or outflow, for asserting jurisdiction over nonretail entities.<sup>2</sup> The Employer has alleged and the Union has not disputed facts which satisfy the Board's discretionary and statutory standards for asserting jurisdiction.<sup>3</sup>

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over the Employer.<sup>4</sup>

<sup>1</sup> The Board has delegated its authority in this proceeding to a three-member panel.

<sup>2</sup> See *Siemons Mailing Service*, 122 NLRB 81 (1958).

<sup>3</sup> We assume in this regard that the local suppliers from which the Employer purchased its goods, supplies, equipment, and services had received such goods, supplies, equipment, and services directly from outside the State of New York. See 373-381 *South Broadway Associates*, 303 NLRB 973 fn. 6 (1991).

<sup>4</sup> 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 petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.40 of the Board's Rules.