

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

(San Francisco, California)

PINKERTON SECURITY SERVICES, INC.

Employer

and

INTERNATIONAL UNION, SECURITY, POLICE  
AND FIRE PROFESSIONALS OF AMERICA, (SPFPA) 1/

Petitioner

and

CALIFORNIA SECURITY OFFICERS UNION

Intervenor

and

SERVICE EMPLOYEES INTERNATIONAL UNION  
LOCAL 24/7, INTERNATIONAL UNION OF  
SECURITY OFFICERS

Limited Intervenor

**20-RC-17815 and 20-RC-17819****DECISION AND ORDER**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed 2/.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 3/
3. The labor organization(s) involved claim(s) to represent certain employees of the Employer. 4/
4. No 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 for the following reasons. 5/

**ORDER**

IT IS HEREBY ORDERED that the petition(s) filed herein be, and it (they) hereby is (are), dismissed.

## RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, 1099-14th Street, NW, Washington, DC 20570-0001**. This request must be received by the Board in Washington by March 12, 2003.

Dated February 26, 2003

at San Francisco, California

/s/ Robert H. Miller

Regional Director, Region 20

- 1/ The Petitioner's name is in accord with the amendment of the petition.
- 2/ It is undisputed that the Limited Intervenor is a labor organization that admits non-guards to membership and therefore, under Section 9(b)(3) of the Act, cannot be certified by the Board as the exclusive collective-bargaining representative of a guard unit. However, the Limited Intervenor and the Employer were parties to a collective-bargaining agreement covering the Employer's guard employees, including those petitioned-for herein, that expired on December 20, 2002. As the Limited Intervenor is currently recognized by the Employer as the collective-bargaining representative of the employees at issue herein and is party to a recently expired collective-bargaining agreement covering those employees, it clearly is an interested party to this proceeding inasmuch as the Petitioner is seeking to carve out a portion of the unit it represents. In these circumstances, and as the Limited Intervenor possesses evidence concerning the appropriateness of the scope of the petitioned-for unit, the collective bargaining history and area bargaining patterns relevant to a determination of whether the petitioned-for unit is an appropriate unit, I find that it was properly permitted to intervene in this proceeding for the limited purpose of providing such evidence and argument. In reaching this decision, I have taken administrative notice of the Order Denying Motion to Intervene, To Show Cause and Indefinitely Postponing Hearing issued by the Acting Regional Director of Region 19 in Eagle Guard Services, Case 19-RC-14289, on January 19, 2003. However, I have determined under the circumstances herein to allow the Limited Intervenor to intervene in these proceedings for the limited purposes described above.
- 3/ The parties stipulated, and I find, that the Employer is a Delaware corporation that maintains offices and places of business in San Francisco, California. The parties further stipulated, and I find, that the Employer is engaged in providing protection services on a contract basis and that it annually provides services valued in excess of \$50,000 directly to clients located outside the State of California. Based on the parties' stipulation to such facts, it is concluded that the Employer is engaged in commerce and that it will effectuate the purposes and policies of the Act to assert jurisdiction in this case.
- 4/ The parties stipulated, and I find, that the Petitioner and the Limited Intervenor are each a labor organization within the meaning of the Act.

With regard to the labor organization status of the Intervenor, the President of the Intervenor, Forrest C. Huff, testified that the Intervenor is an organization in which employees participate and which deals with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment and other working conditions. The record also reflects that the Intervenor has collective-bargaining agreements with Holiday Security Company to represent guards working in the Federal Buildings in Northern California. In these circumstances, I find that the Intervenor is a labor organization within the meaning of the Act.

- 5/ By the petition in Case 20-RC-17815, the Petitioner seeks to represent a unit comprised of approximately ten security guards employed by the Employer at 50 California Street, San Francisco, California. By the petition in Case 20-RC-17819,

the Petitioner seeks to represent in a separate unit, approximately seven to eight guards employed by the Employer at 425 Mission Street, in San Francisco California. The Limited Intervenor asserts that the petitioned-for units are inappropriate and that the only appropriate unit is one that is coextensive with its recently expired collective-bargaining agreement, as discussed below. The Petitioner contends that the petitioned-for units are appropriate units but it is willing to go to an election in a different unit. The Employer takes no position as to the appropriateness of the petitioned-for units.

Background. The Employer is a security company that employs about 500 to 600 guards working at one hundred sites in the San Francisco Bay Area. The Employer has a human resources department and a centralized payroll system that serve all of its Bay Area locations.

The Employer has seven branch managers, each of whom oversees and implements Employer policies at the various the work sites within his or her respective branch. The record reflects that each branch manager has the authority to terminate employees; adjust employee grievances; schedule vacations; and find replacement employees to fill in for employees who are absent. The Employer also has ten field supervisors who travel to the worksites within the various branches. The field supervisors visit each site approximately once or twice each week to oversee the operation.

The Employer's larger work sites have a site supervisor who performs regular guard duties. All of the site supervisors have the same level of authority. In this regard, the record reflects that while the site supervisors make recommendations regarding discipline, the Employer's higher-level managers always conduct an independent investigation of the situation. The site supervisors do not have authority to adjust employee grievances. Nor do they schedule or find replacements for absent employees. Many Employer locations have no site supervisor.

The record reflects that the Employer uses different uniforms at different locations.

About ten security officers work at the 50 California Street location. This site is located within a branch with about 18 to 22 other work sites that are overseen by the same branch manager. It has a site supervisor with authority described above. Employees working at 50 California Street wear a blazer jacket type of uniform. The record is silent regarding the specific types of uniforms worn by employees at the other work sites within this branch.

About seven to eight guards work at the 425 Mission Street location. This location is in a different branch than the 50 California Street location and it has a different branch manager. The branch manager of the 425 Mission Street location oversees about 100 to 120 employees at 40 locations. The guards at the 425 Mission Street facility wear different, more military type uniforms than the blazer jacket type uniform worn by guards at the 50 California Street location.

The record reflects that the educational level, skill levels, orientation, training, benefits and starting wage rates for guards at the Employer locations covered under the collective-bargaining agreements described below are basically the same. Employees who transfer between jobsites maintain the same vacation and other benefits. The duties of the guards are also basically the same at all locations although different property managers may have somewhat different requirements in this regard.

The record does not disclose the level of interchange among employees at the various Employer locations. However, the Employer's use of guards at multiple facilities is shown by the testimony of Limited Intervenor Vice President Larry Williams, who worked for the Employer's predecessor American Security Service (APS) beginning in 1997 and then for the Employer in 2000. When Williams worked for American Security Service, he worked at 555 and 575 Market Street in San Francisco. When the Employer took over APS in approximately 2000, Williams continued to work at the Market Street locations. However, the Employer also trained him to work as a floater at 25 other locations where he would fill in for absent or sick employees. According to Williams, he worked at approximately five different sites, including the 50 California Street location, where he worked for one or two days. Williams testified that the Employer had a centralized dispatch system that he would call to find out where to report to work.

Bargaining History. The record contains two contracts between the Limited Intervenor and the Employer's predecessor, APS, each of which was extended by agreement between the Employer and the Limited Intervenor and each of which expired on December 20, 2002.

The first of these agreements (herein called the High Rise Agreement) was effective from May 7, 1999 through October 31, 2001, and was thereafter extended by agreement of the parties until its expiration on December 20, 2002. This High Rise Agreement encompasses work performed in the City and County of San Francisco and in that portion of San Mateo County north of Highway 92, categorized as "High Rise Office Buildings," which is defined as being work performed for office building owners or office building managers where the building exceeds seven stories in height. The recognition clause of the High Rise Agreement states that it covers all employees employed by the Employer as guards, watchmen, patrolmen, fire patrol, and/or security officers who are not covered by the Waterfront Agreement; excluding all office employees and all supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees. The guards at the 50 California location have been covered under the High Rise Agreement.

The second agreement between the Employer and the Limited Intervenor (herein called the Low Rise Agreement) covered the same categories of employees as described above at the low-rise buildings (under eight stories) in the same

geographic area. The Employer and the Limited Intervenor also had similar collective-bargaining agreements covering such employees in the East Bay (Alameda and Contra Costa Counties), Santa Clara County and in Modesto and Stockton, California. The guards working at the 425 Mission Street location have been covered under the Low Rise Agreement.

Area Bargaining Pattern. I take administrative notice of my recent decisions in other guard cases in the San Francisco Bay Area, including, *Professional Technical Security Service, Inc.*, 20-RC-17822; *ABM Security Services d/b/a American Commercial Security Services*, 20-RC-17816 and 20-RC-17817; and *Cypress Security, LLC*, 20-RC-17814, which support the conclusion that the pattern of bargaining in the Bay Area in the guard industry has historically been on a multi-location basis.

Analysis. In determining whether a petitioned-for unit of a single location of a multi-location Employer is appropriate, the Board evaluates the following factors: employees' skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history. *Bashes, Inc.*, 337 NLRB No. 113 (June 26, 2002); *Alamo Rent-A-Car*, 330 NLRB 897 (2000); *NLRB v. Carson Cable TV*, 795 F.2d 879, 884 (9th Cir. 1986).

Generally, single facility units are presumed to be appropriate units. See *New Britain Transportation Co.*, 330 NLRB No. 57 (slip op at 1) (December 30, 1999), citing *J&L Plate, Inc.*, 310 NLRB 429 (1993). However, the single location units herein are not Employer facilities but building locations where the Employer's guards are assigned to work. In any event, assuming that the single location presumption is applicable in this case, I find that the evidence showing that the petitioned-for units are not appropriate has overcome it. Thus, application of the foregoing factors to the units petitioned for herein shows that neither is an appropriate single location unit. Thus, the employees at all of the locations covered under the collective-bargaining agreements described above have basically the same skills and duties. Moreover, the terms and conditions of employment for all employees that have been covered under the High Rise and Low Rise Agreements are basically the same.

The record shows that the employees at the two petitioned-for locations share common supervision with employees at many other Employer locations. In this regard, the evidence shows that the 425 Mission Street location does not have a site supervisor and is directly supervised by a branch manager. While the 50 California Street location has a site supervisor, the evidence does not establish that he is a statutory supervisor. Thus, this location is also supervised by a branch manager. While these two locations have separate supervision because they have different branch managers, the branch manager of each location also supervises employees at numerous other locations within his branch.

Although the record does not disclose the level of interchange among employees at the various Employer locations, the testimony of Williams shows that employees are trained to work at multiple locations and that the Employer has a centralized dispatch system for this purpose. With regard to geographic proximity, the worksites covered under the High Rise and Low Rise Agreements are within the Bay Area and many are within the City of San Francisco. Further, the existence of a collective bargaining history on a multi-location basis does not support a finding that any single location unit is an appropriate unit. Finally, as noted above, the pattern of bargaining in the guard industry in the San Francisco Bay Area has generally been on a multi-location basis, which similarly does not support a finding that a single location unit is appropriate.

Based on the foregoing, I find that neither of the single facility units petitioned for herein is an appropriate unit. Although the Petitioner has indicated its willingness to proceed to an election in units different from those petitioned-for, in the absence of a petition in a broader unit and in the absence of a sufficient showing of interest, I decline to make a determination as to whether an appropriate unit in either case is one comprised of employees at the branch level, the Employer-wide level or based on some other configuration of employees. Accordingly, I am dismissing the instant petitions without prejudice to the Petitioner to file with a sufficient showing of interest, a petition or petitions in a broader unit or units.

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