

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

HWA, INC.¹

Employer

and

Case No. 29-RC-10071

INTERNATIONAL UNION, SECURITY, POLICE
AND FIRE PROFESSIONALS OF AMERICA

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, herein called the Act, as amended, a hearing was held before Tabitha Tyle, a Hearing Officer of the National Labor Relations Board, herein called 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 hereby are affirmed.
2. J. Thomas Wood, a representative of HWA, Inc., herein the Employer, testified that the Employer, a domestic corporation, has a principal office and place of business located at 1809 7th Avenue, Suite 1400, Seattle, Washington, where it is engaged in various business activities including providing armed and unarmed security guard services to various United States government facilities. Wood also testified that

¹ The name of the Employer appears as amended at the hearing.

the Employer annually provides security guard services valued in excess of \$50,000 to the United States government.

Based on the record as a whole, I find that 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. The record reveals that International Union, Security, Police and Fire Professionals of America, herein the Petitioner, admits employees to membership, that said employees participate in the functioning of the Petitioner and that the Petitioner exists, in whole or in part, for the purpose of dealing with employers concerning, hours, wages and other terms and conditions of employment. In light thereof, I find that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act. I also find that the Petitioner satisfies the requirements set forth in Section 9(b)(3) of the Act and is therefore eligible to seek certification of a bargaining unit limited to guards. The Petitioner claims to represent certain employees of the Employer.

4. 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.

5. The parties stipulated, and I find, that the following unit is appropriate for the purposes of collective bargaining:

All full-time and regular part-time security officers performing guards duties as defined in Section 9(b)(3) of the Act employed by the Employer at the locations listed below, and excluding all other employees, including office clerical employees, professional employees and supervisors as defined in the Act.

10 Bouck Court, Brooklyn, NY	26 Federal Plaza, New York, NY
2250 Nostrand Ave., Brooklyn, NY	290 Broadway, New York, NY
217 Havemeyer St., Brooklyn, NY	201 Varick St., New York, NY
790 Broadway, Brooklyn, NY	One Bowling Green, New York, NY
27 Pennsylvania Avenue, Bklyn, NY	75 Park Place, New York, NY
3386 Fulton St., Brooklyn, NY	110 W. 44 th St., New York, NY

1329 Rockaway PkWay, Bklyn, NY	141 Worth St., New York, NY
350 Troy Avenue, Brooklyn, NY	650 East 12 th St., New York, NY
1360 Fulton St., Brooklyn, NY	32 Mercer St., 8 th Fl., New York, NY
6001 Ft. Hamilton Pkwy, Bklyn, NY	755 2 nd Ave., 41 st St., 3 rd Fl, NY, NY
Kings Plaza, 4123 Ave.U, Bklyn, NY	Cav Bldg, 55 W125 St.6 Fl, NY, NY
237 W48 St., 5 Fl, NY, NY	1395 Lex. Ave. Grand Fl, NY, NY
595 Forest Avenue, S.I., NY	4292 Broadway, 182 nd St., Bklyn, NY
195 Montague St, Bklyn, NY	DEA Office, 17 th St & 10 th Ave.
2389 Richmond Avenue, S.I., NY	New York, NY

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently subject to the Board's Rules and Regulations. Eligible to vote in the election are those in the unit 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 any 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 which 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.

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.

Those eligible to vote shall vote whether or not they desire to be represented for collective bargaining purposes by International Union, Security, Police and Fire Professionals of America.

LIST OF VOTERS

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of the statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision, four (4) copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB No. 50 (1994). In order to be timely filed, such list must be received in the Regional Office, One MetroTech Center North-10th Floor, Brooklyn, New York 11201 on or before August 15, 2003. No extension of time to file the list may be granted, nor shall the filing of a request for review operate to stay the filing of such list except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

NOTICES OF ELECTION

Please be advised that the Board has adopted a rule requiring that election notices be posted by the Employer at least three working days prior to an election. If the Employer has not received the notice of election at least five working days prior to the election date, please contact the Board Agent assigned to the case or the election clerk.

A party shall be estopped from objecting to the nonposting of notices if it is responsible for the non-posting. An Employer shall be deemed to have received copies of the election notices unless it notifies the Regional office at least five working days prior to 12:01 a.m. of the day of the election that it has not received the notices. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure of the Employer to comply with these posting rules shall be grounds for setting aside the election whenever proper objections are filed.

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, N.W., Washington, D.C. 20570. This request must be received by August 22, 2003.

Dated at Brooklyn, New York, August 8, 2003

/S/ ALVIN BLYER

Alvin P. Blyer
Regional Director, Region 29
National Labor Relations Board
One MetroTech Center North, 10th Floor
Brooklyn, New York 11201