

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 12

FREEMAN DECORATING COMPANY

Employer

and

Case 12-RC-9053

TEAMSTERS LOCAL UNION NO. 385

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Freeman Decorating Company (Employer) is a general services contractor providing trade show and convention services in Florida. On June 2, 2004, Teamsters Local Union No. 385 (the Union) filed a petition seeking to represent all full-time and regular part-time employees of the Employer employed in the carpet department and drape<sup>1</sup> department. On June 14 and 15, 2004, a hearing officer of the Board held a hearing, and the parties were given an opportunity to file briefs with me.<sup>2</sup>

As evidenced at the hearing and in the Employer's brief, the parties disagree on the following issues: (1) whether temporary employees employed in the carpet and drape departments provided by an employment agency named Team Staffing should be included in the unit; and (2) whether the Employer and Team Staffing should be considered joint employers.

The parties agree that all full-time and regular part-time carpet and drape employees should be included in the unit. However, contrary to the Union, the Employer contends that the temporary employees should be included in the unit, and that the Employer and Team Staffing are joint employers. The unit that the Union contends is appropriate has approximately five employees in the drape department and three employees in the carpet department. The unit

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<sup>1</sup> The parties stipulated that the drape department is also called the sewing department.

<sup>2</sup> The Employer is the only party that filed a brief.

that the Employer contends is appropriate has at least 12 employees in the drape department and at least 10 employees in carpet department.<sup>3</sup>

I have considered the evidence and the arguments presented by the parties on each of the issues. As discussed below, I have concluded that the petitioned-for bargaining unit consisting of all full-time and regular part-time carpet and drape employees, but excluding the temporary employees, is appropriate. I have also decided that a finding regarding whether the Employer and Team Staffing are joint employers is not warranted. Accordingly, I have directed an election in a unit that consists of approximately three employees in the carpet department and five employees in the drape department.

To provide a context for my discussion of the issues, I will first provide the relevant factual background in this case. Then, I will present in detail the facts and reasoning that support each of my conclusions on the issues.

## **I. RELEVANT FACTUAL BACKGROUND**

### **A. Overview of the Employer's Operations**

The Employer provides services for show management companies that are involved in the exhibit and the trade-show industry in Orlando and other locations in Florida. The Employer maintains a warehouse in Orlando, Florida where it employs approximately 120-150 employees. The warehouse is divided into several production departments, including the carpet department and drape department.

The warehouse manager directly supervises all of the employees in the warehouse, including the full-time, part-time and temporary employees who work in the carpet department

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<sup>3</sup> The Employer also contends that the eligibility formula for the temporary employees should be the formula announced in Artcraft Displays, Inc., 262 NLRB 1233, 1237 (1982), as clarified, 263 NLRB 804-805 (1982). The Union did not take a position on this issue. Given my decision not to include the temporary employees in the unit, a finding regarding this issue is not warranted.

and drape department.<sup>4</sup> The warehouse manager prepares the schedule for the full-time, part-time and temporary employees in the carpet and drape departments. The schedule is based upon production deadlines relating to the published show schedules, in-house work and general work orders. The warehouse manager is also responsible for assigning full-time, part-time and temporary employees to different assignments.

The Employer's amount of work varies throughout the year. Thus, the Employer's busiest time of the year is from January to March, and the Employer's slowest time of the year is from June to August and the weeks between the Thanksgiving holiday and January 1<sup>st</sup>. To meet its workload during the busiest calendar quarters, the Employer uses Team Staffing to provide temporary employees. The Employer is Team Staffing's largest client. Team Staffing employees visit the warehouse at least once a week in order to maintain customer satisfaction, but Team Staffing does not supervise the day-to-day work of the temporary employees.

A full-time employee is defined by the Employer as an employee who works 40 hours per week and receives company benefits. A regular part-time employee is called in to work or is otherwise scheduled to work, but does not have an expectation of necessarily working 40 hours per week and does not receive company benefits.<sup>5</sup> Temporary employees may work 40 hours a week or more when they are used, working 8 to 12 hours a day during the busy quarters.

## **II. Unit Consisting of All Full-time and Regular Part-time Carpet and Drape Employees is Appropriate**

### **A. Case Law**

Before examining the specific issues concerning the appropriateness of the petitioned-for unit in this case, I will briefly review the standards for determining an appropriate unit for collective-bargaining purposes.

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<sup>4</sup> The parties stipulated that the warehouse manager, assistant warehouse manager, assistant director of operations, assistant general manager and general manager/vice-president should be excluded from the unit as supervisors under the Act.

<sup>5</sup> The record reflects the actual regularity of employment of the "regular part-time" employees.

The Board has held that Section 9(a) of the Act only requires that the unit sought by the petitioning union be an appropriate unit for the purposes of collective bargaining. Engineered Storage Products, 334 NLRB 1063, 1064 (2001); National Cash Register Co., 166 NLRB 173, 174 (1966). The statute does not require the unit to be the only appropriate unit or the most appropriate unit. Id.; Morand Brothers Beverage Co., 91 NLRB 409, 418 (1950). Although the Employer may seek a broader unit that is appropriate, that does not necessarily render the petitioner's unit inappropriate. Overnite Transportation Co., 322 NLRB 723 (1996).

The Board's decision in M.B. Sturgis, Inc., 331 NLRB 1298 (2000), governs whether or not the temporary employees supplied by Team Staffing (the supplier employer) to the Employer (the user employer) should be included in the unit. In the instant case, the Petitioner decided not to name Team Staffing in its petition as a joint employer. Contrary to the Employer's contentions, where the union seeks to represent only the employees of the user employer, it is not required to name the joint employers or litigate the existence of a joint employer relationship. Professional Facilities Management, 332 NLRB 345, 345-346 (2000); Holiday Inn City Center, 332 NLRB 1246 (2000).

When a party seeks to include both temporary employees and the solely-employed employees of a user employer, the Board's traditional community of interest criteria applies. Sturgis, 331 NLRB at 1304. The community of interest test involves examining a variety of factors to determine if "mutuality of interests" in wages, hours, and working conditions exists among the employees involved. Kalamazoo Paper Box, 136 NLRB 134, 137 (1962); Swift & Co., 129 NLRB 1391 (1961); Continental Baking Co., 99 NLRB 777, 782-783 (1952); and 15 NLRB Ann. Rep. 39 (1950).

Although the agency-supplied and the regular employees of the Employer may share a community of interest sufficient for an appropriate unit, their inclusion in the unit is not mandated. Engineered Storage Products Co., supra, 334 NLRB at 1063; See also Holiday Inn City Center, supra. Rather, contrary to the Employer's arguments, the test is whether the

community of interest shared by the temporary employees and the regular employees is so strong as to require the temporary employees inclusion in the unit. Id.; Overnite Transportation Co., 322 NLRB at 726.

## **B. Temporary Employees Excluded from the Unit**

I find that the petitioned-for unit is appropriate because the temporary employees do not share such a strong community of interest with the Employer's regular employees so as to require their inclusion in the unit. Although the temporary and regular employees share common supervision, work side-by-side with each other and perform several of the same work functions, there are key differences between them. Thus, the temporary employees do not perform all of the same job functions as the Employer's regular employees. Moreover, the temporary employees do not receive the same wages or benefits as the regular employees, and Team Staffing hires and disciplines the temporary employees. Finally, the vast majority of temporary employees do not have any reasonable expectation of re-employment with the Employer, nor do temporary employees routinely transition into regular employment.

### **1. The Temporary Employees do not Perform All of the Same Job Functions as Regular Employees**

#### **A. Carpet Department**

The carpet department, also referred to as department number 1615, is responsible for the cleaning and processing of all the carpet rented by the Employer's customers for the trade shows. There are three full-time employees in the carpet department, but there are no part-time employees. One of the full-time employees is a lead employee.<sup>6</sup> In the busy season, the Employer also utilizes about 7-14 temporary employees from Team Staffing in the carpet department, but temporary employees are not utilized in July or August.

The full-time employees in the carpet department regularly work from 6:00 a.m. to 3:30 p.m., 7:00 a.m. to 4:30 p.m. or 7:00 a.m. to 3:30 p.m. During the Employer's busiest quarters,

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<sup>6</sup> The parties stipulated that the full-time lead employee in the carpet department should be included in the unit.

the carpet department operates two shifts, 7:00 a.m. to 4:00 p.m. and 3:30 p.m. to 11:00 p.m. or 12:00 a.m. While the first shift is composed of two full-time employees, the second shift is composed of temporary employees and one full-time regular employee to “supervise” the temporary employees.<sup>7</sup>

The duties of the full-time employees in the carpet department include cutting carpet to the specifications of the Employer’s customers. Although the temporary employees assist in cutting carpet, they are not allowed to cut carpet by themselves until after two or three months of employment (assuming they work that long). When the carpet returns to the Employer’s facility from show sites, the employees clean and roll the carpet, as well as dispose of scrap carpet materials. The temporary employees’ main function is to spot clean the carpets on their hands and knees using a squirt bottle. The temporary employees occasionally use a shampoo machine to clean the carpets.

The full-time employees also place “carpet pigs”, metal pipes on which carpet is rolled, into trailers for transport. There are four types of carpet pigs, two of which must be moved by a forklift into the trailer. Although the three full-time employees have forklift certifications to operate the Employer’s forklifts in order to move the carpet pigs, the temporary employees are not allowed to operate forklifts nor are they certified to perform that work. Thus, the temporary employees assist in loading only the “carpet pigs” onto trailers that are on wheels.

The full-time employees in the carpet department are also responsible for processing paperwork such as preparing “load lists” and inventory paperwork. The temporary employees do not process paperwork. In addition, the full-time lead employee trains temporary employees and assists in the time-keeping function of temporary employees.

## **B. Drape Department**

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<sup>7</sup> None of the parties contend that the full-time employee temporarily “supervising” the second shift should be excluded from the unit, nor is there evidence that the employee exercises any supervisory authority under Section 2(11) of the Act warranting his exclusion.

The drape department, also referred to as department number 1618, maintains and processes the drapery materials used by the Employer's customers for their exhibit booths at the trade shows. The drape department has one full-time lead employee<sup>8</sup> and three part-time employees. In the busy season, the Employer also employs approximately 7-12 temporary employees from Team Staffing in the drape department. The Employer generally does not use temporary employees in the drape department during the summer months and the last two weeks of the year before the Holidays.

The full-time lead employee in the drape department assists the warehouse manager in controlling the inventory and processing paperwork. In addition, as in the carpet department, the full-time lead employee in the drape department trains temporary employees and assists the warehouse manager in maintaining the temporary employees' start times and end times for the work day. The part-time employees and temporary employees string and unstring drapes. This involves pulling the drape off the "waterfall inventory" and putting it on metal pipes called "telescopes". When the drape comes back from the trade shows, the drape is put back on the "waterfall inventory".

The part-time drape employees have additional job duties not performed by temporary employees. Thus, while there is one part-time employee who operates a forklift, none of the temporary employees in the drape department operate a forklift or are certified to do so.<sup>9</sup> In addition, another part-time employee is occasionally given additional responsibilities in other parts of the drape department. Moreover, all of the part-time employees operate the sewing machine, but only one temporary employee is currently allowed to operate the sewing machine.<sup>10</sup>

## **2. The Temporary Employees Receive Different Wages from the Regular Employees**

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<sup>8</sup> The parties stipulated that the full-time lead employee in the drape department should be included in the unit.

<sup>9</sup> Although the Employer argues that the full-time lead employee does not operate a forklift, it appears that the Employer has designated only one employee in the department to operate the forklift. The record does not reflect that the other regular employees are unable to operate a forklift if required to do so by the Employer.

<sup>10</sup> There is no special certification required to operate a sewing machine.

The wages of the temporary employees are less than those paid to the regular employees, and Team Staffing primarily controls the wages of the temporary employees.

The three full-time employees in the carpet department make \$10.61, \$12.80 and \$13.60 per hour, respectively. The full-time lead employee in the drape department makes \$12.75 per hour, while the part-time employees make between \$8.50 per hour and \$9.25 per hour.

In sharp contrast to the above wages for the Employer's regular employees, the temporary employees make a starting wage rate of \$7.00 per hour. Although temporary employees occasionally receive raises by Team Staffing based upon recommendations by the Employer, this is not common.<sup>11</sup> Moreover, the Employer has no control over the \$7.00 per hour starting wage rate established by Team Staffing for temporary employees. See Laneco Construction Systems, 339 NLRB No. 132, slip op. at 4 (2003); Trumbull Memorial Hospital, 338 NLRB No. 132, slip op. at 2 (2003); Engineered Storage Products Co., 334 NLRB at 1063 (temporary employees' inclusion in the unit was not mandated where the employees received lower wages and benefits than regular employees and the employment agency established the temporary employees' wages and benefits).

As reflected in the Employer's contract with Team Staffing,<sup>12</sup> the Employer currently pays Team Staffing a standard rate of \$10.75 per hour for each temporary employee in the warehouse, including the temporary employees working in the carpet department and the drape department. Team Staffing provides the paychecks to the temporary employees and pays for their worker's compensation and unemployment compensation. Team Staffing's fee is a "general markup" to cover the cost of the service, worker's compensation and unemployment

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<sup>11</sup> Although there is some ambiguous testimony by a witness employed by Team Staffing concerning whether the Employer performs evaluations for temporary employees in order to recommend raises, it is not clear that the Employer uses any specific criteria for recommending these raises.

<sup>12</sup> I hereby overrule the Hearing Officer's ruling rejecting Employer's Exhibits 1 and 2, which relate to its contract with Team Staffing as these documents have some bearing on the appropriateness of the unit in this case.

compensation. Team Staffing will re-negotiate the service fee for the entire warehouse if there is an increase in worker's compensation or unemployment compensation premiums.

### **3. The Temporary Employees have Different Benefits from Full-time and Regular Part-time Employees**

Although the Employer's full-time employees receive paid vacations, paid holidays, bereavement leave, 401(k) options, health insurance, life insurance, long-term disability, time off for jury duty and an employee stock ownership program, part-time and the temporary employees do not receive any benefits from the Employer. In addition, the temporary employees are not invited to the Employer's company picnic and are invited to the annual employee appreciation day function only if they are working on that day.

Although the Employer's part-time employees do not receive any benefits, Team Staffing does provide all the temporary employees with the ability to pay group rates for health insurance, eye insurance and dental insurance. Although Team Staffing does not cover the cost of the insurance, it does arrange for and provide the group rate to the temporary employees. The Employer is not involved in obtaining that health insurance and the Employer does not pay for any of the temporary employees' insurance benefits. See Engineered Storage Products Co., 334 NLRB at 1065 (inclusion of temporary employees not mandated where temporary employees who were not entitled to the benefits furnished to the Employer's regular employees and were the only benefits where provided exclusively by the supplier employer).

While the Employer does not provide any paid vacation time to its part-time employees, Team Staffing does provide its temporary employees who meet a certain hours of work standard with a paid vacation.<sup>13</sup> The Employer is not involved with Team Staffing's vacation policy, and other than its general fee, does not reimburse Team Staffing for the paid vacation given to the temporary employees. See Trumbull Memorial Hospital, 338 NLRB, slip op. at 2

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<sup>13</sup> Temporary employees who have worked at least 1,500 hours per year receive one week of paid vacation, and employees who have worked 1,500 hours for three consecutive years receive two weeks of paid vacation.

(temporary employees inclusion not mandated where the temporary employees were not covered by the employer's benefits, including its vacation policy).

Team Staffing also pays the temporary employees for all of the holidays of the Employer and any National Holidays as long as they are scheduled to work the day before and the day after the holiday. The temporary employee has to be with the temporary agency for six months to receive paid holidays.

#### **4. Team Staffing Hires the Temporary Employees**

Although Team Staffing is aware of the Employer's general requirements for temporary employees, Team Staffing hires all of the temporary employees that it sends to the Employer for the carpet department and drape department. Under its contract with the Employer, Team Staffing is required to screen, test and check the references of all temporary labor provided to the Employer, and the Employer does not have any input into the hiring process. Holiday Inn City Center, 332 NLRB 1246 (2000). Cf. Outokumpu Copper Franklin, Inc., 334 NLRB 263, 264 (2001) (employer establishes specific criteria for hiring of temporary employees).

#### **5. Team Staffing Disciplines and Discharges the Temporary Employees**

The Employer has a progressive disciplinary procedure for its regular employees that it does not apply to the temporary employees. The Employer's progressive disciplinary policy for full-time and part-time employees includes verbal warning, written warning, final warning, suspension, and termination. On the other hand, the Employer only verbally counsels temporary employees. Trumbull Memorial Hospital, 338 NLRB No. 132, slip op at 2 (2003) (inclusion of temporary employees not mandated where the temporary employees were not covered by the employer's disciplinary rules). Cf. Outokumpu Copper Franklin, 334 NLRB at 263 (employer's supervisors retained full authority to discipline and discharge temporary employees).

If the Employer is not satisfied with a temporary employee or the temporary employee does not respond to verbal counseling, the Employer will send the employee home and contact

Team Staffing. Although the Employer will ask Team Staffing not to send that employee back to their facility, Team Staffing is responsible for disciplining, discharging or sending the temporary employee to another Team Staffing employer.

## **6. Temporary Employees have no Reasonable Expectation of Employment from Year to Year**

When the Employer needs temporary employees, it calls Team Staffing and requests a certain number of employees. Many times, the Employer requests the temporary employees for two to three months at a time. In the vast majority of cases, the Employer does not request any temporary employees by name.

However, the Employer does have two to four individuals it calls “regular temps” that the Employer does request from Team Staffing by name. Team Staffing tries to honor the Employer’s request, but cannot always do so because the temporary employee may be employed by another employer that does business with Team Staffing. Team Staffing does not force a temporary employee to perform work for the Employer if he or she is employed elsewhere at the time. Moreover, a temporary employee who no longer wants to work for the Employer can chose to leave and Team Staffing will send him or her to another employer.

There is a lot of turnover among temporary employees in the carpet department and drape department. The Team Staffing work tickets and other records provided during the hearing reflect the names of the temporary employees who worked in the carpet and drape departments during the period from January through May 2004. With the exception of a few individuals, the employment of the temporary employees was not continuous or was limited to a brief time period. Moreover, the warehouse manager specifically testified that with the exception of two to four individuals specifically requested by name, most temporary employees who begin work after the Employer’s busy season resumes are not the same employees who had worked for the Employer previously.<sup>14</sup>

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<sup>14</sup> Since Team Staffing is utilized by the Employer to provide individuals to work in departments other than the ones

In addition, under its contract with Team Staffing, the Employer is allowed to obtain temporary labor from other sources and does so in other departments of the warehouse.

## **7. Temporary Employment is Not Akin to a Probationary Period**

Although temporary employees have been hired as full-time employees in the carpet department and drape department, there is insufficient evidence that this happens on a regular basis. Currently, all of the Employer's drape department employees were former temporary employees, but the record does not reflect that any carpet department employees were former temporary employees. Cf. Interstate Warehousing of Ohio, LLC, 338 NLRB No. 83, slip op. at 1 (2001) (temporary employees akin to probationary employees in that the employer obtained *all* of its regular workforce by hiring temporary employees).

Moreover, even in the drape department, the last time a temporary employee was given a permanent position by the Employer was May or June 2003. Cf. Outokumpu Copper Franklin, 334 NLRB at 264 (where temporary employees were akin to probationary employees who were expected to transition into regular, full-time employees after a certain period of time); See also Interstate Warehouse of Ohio, LLC, 338 NLRB, at 11.

Finally, the temporary employees are not the exclusive source of the Employer's workforce in the carpet and drape department. Cf. Outokumpu Copper Franklin, *supra*.

## **8. The Chronos Time Keeping System is Not Generally Used by Temporary Employees**

The Employer uses the "Chronos Time Keeping System" to allocate full-time and part-time employees' time toward different customers (job numbers). The Employer uses the system to charge its customers and to allocate payroll to different jobs. The employees are required to use a punch pad in the chronos system when they change job numbers.

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at issue, there are occasions when these temporary employees who have worked in the carpet or drape department are transferred to one of the Employer's other departments, or vice versa.

On the other hand, the vast majority of temporary employees do not use the chronos system, and under its contract with the Employer, Team Staffing is required to maintain the payroll for all the temporary employees. With the help of the full-time lead employees in the carpet and drape departments, the warehouse manager maintains handwritten Team Staffing work tickets that are prepared and provided to Team Staffing every week. In addition, the warehouse manager maintains the job numbers on these work tickets for the temporary employees. See Laneco Construction Systems, Inc., 339 NLRB No. 132, slip op. at 4 (2003) (unit of the employer's solely employed employees appropriate where the employees were carried on separate payrolls).

Occasionally, the comptroller requests that temporary employees be placed on the chronos system if they have been working for the Employer for at least two months and will be working on a particular assignment for a few days or a week. The Employer currently has about six temporary employees on the chronos system. When temporary employees are on the chronos system, the Team Staffing work tickets do not reflect the job numbers. Rather, a separate chronos print-out is provided to Team Staffing along with the work ticket for the temporary employee.

If a temporary employee has a problem with his or her paycheck, he or she will generally approach Team Staffing first, and Team Staffing will in turn call the Employer to resolve the issue.

#### **9. The Temporary Employees Do Not Wear the Same Uniform as Regular Employees**

The full-time employees in the carpet and drape department will occasionally visit a customer's job site in order to load equipment, and they are required to wear company apparel on those job site assignments. Some full-time and part-time employees do chose to wear company apparel within the warehouse as well, but they are not required to do so. The temporary employees never wear company apparel. Rather, most of the time, the temporary

employees wear their own clothing and occasionally wear a Team Staffing T-shirt provided by Team Staffing.

### III. CONCLUSION AND FINDINGS

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

- A. The hearing officer's rulings, with the exception of the hearing officer's ruling rejecting Employer's Exhibits 1 and 2 noted above in footnote 12, are free from prejudicial error and are affirmed.
- B. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.<sup>15</sup>
- C. The Union claims to represent certain employees of the Employer.<sup>16</sup>
- D. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c) of the Act and Section 2(6) and (7) of the Act.
- E. The following employees of the Employer constitute an appropriate unit for the purposes of collective bargaining with the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time carpet department and drape department employees employed by the Employer at its warehouse located in Orlando, Florida.

Excluded: All temporary employees, all other employees, office clerical employees, guards, and supervisors as defined in the Act.<sup>17</sup>

### IV. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they

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<sup>15</sup> The parties stipulated that the Employer, an Iowa corporation, has its principal office and place of business in Dallas, Texas; has a place of business in Orlando Florida; and is a general services contractor providing trade show and convention services. During the past twelve (12) months, in conducting its business operations, the Employer purchased and caused to be transported and delivered to its job sites in the State of Florida, goods valued in excess of \$50,000, directly from points outside the State of Florida.

<sup>16</sup> The parties stipulated, and I find, that the Union is a labor organization within Section 2(5) of the Act.

wish to be represented for purposes of collective bargaining by Teamsters Local Union No. 385. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

**A. Voting Eligibility**

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 an 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 that began less than 12 months before the election date, employees engaged in such a 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 or 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.

**B. Employer to Submit List of Eligible Voters**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the

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<sup>17</sup> The parties stipulated to these exclusions from the unit, other than the exclusion of temporary employees.

Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type and clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, 201 E. Kennedy Blvd., Tampa, Florida, 33602, on or before July 23, 2004. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. Since the list will be made available to all parties to the election, please furnish a total of **two** copies. If you have any questions, please contact the Regional Office.

**C. Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of three working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

**VI. 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 14<sup>th</sup> Street, N.W., Washington, D.C. This request must be received by the Board in Washington by 5:00 p.m., EST on July 30, 2004. The request may not

be filed by facsimile.

DATED at Tampa, Florida, this 16th day of July, 2004.

/s/Margaret J. Diaz  
Margaret J. Diaz, Acting Regional Director  
National Labor Relations Board, Region 12  
201 E. Kennedy Blvd., Suite 530  
Tampa, FL 33602-5824