

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5

VANCE UNIFORMED PROTECTION SERVICES, INC.

Employer

and

CASE 5-RC-15728

INTERNATIONAL UNION, SECURITY, POLICE AND
FIRE PROFESSIONALS OF AMERICA (SPFFA)

Petitioner

**REPORT ON OBJECTIONS
AND NOTICE OF HEARING**

Pursuant to a Stipulated Election Agreement¹ approved by the undersigned on May 28, 2004,² a secret-ballot election was conducted under my supervision on June 23 with the following results:

Approximate number of eligible voters	37
Void ballots	0
Votes cast for Petitioner	14
Votes cast against participating labor organization	17
Valid votes counted	31
Challenged ballots	2
Number of valid votes counted plus challenged ballots	33

Challenges were not sufficient in number to affect the results of the election.

Petitioner filed timely objections to conduct affecting the results of the election on June 29.³

THE OBJECTIONS

¹ The unit is: "All full-time and/or regular part-time security officers performing guard duties as defined in Section 9(b)(3) of the National Labor Relations Act, as amended, employed by the Employer at the Thurgood Marshall Federal Judicial Building; but excluding all other employees, office employees, clerical employees, professional employees, managerial employees, and supervisors as defined in the Act, as amended." The payroll eligibility period is the payroll period ending May 22, 2004.

² All dates are in the year 2004 unless noted otherwise.

³ The petition was filed on May 12. The undersigned will consider on its merits only that alleged interference that occurred during the critical period that begins on and includes the date of the filing of the petition and extends through the election. Goodyear Tire and Rubber Company, 138 NLRB 453.

Objection 2

The Employer threatened to retaliate against any employee who engaged in protected, concerted activity.

Objection 7

The Employer threatened bargaining unit members with loss of employment if they voted for the Union.

In support of Objections 2 and 7, Petitioner relies on a statement by Employee A, who claims that in early June, Site Supervisor Sergeant Richard Carter told Employees including A that if the union came in, they “were out”.

The Employer denies having engaged in any objectionable conduct or that any objectionable conduct occurred.

As it appears substantial and material issues have been raised which can best be resolved by record evidence, I find a hearing is warranted with respect to the issues raised by Petitioner’s Objections 2 and 7

Objection 5

The Employer paid an extraordinary benefit payment before the Union election.

In support of Objection 5, Petitioner relies on Employee A, who states in June the Employer, during a meeting sponsored by the Employer about the Union, advised Employees it had checks for Health and Welfare back pay for the period of October 2003 through March 2004. Employee A further states these monies had been withheld up to that point, and the back pay was not provided until the period that the Union was under consideration by the employees.

The Employer denies having engaged in any objectionable conduct or that any objectionable conduct occurred.

As it appears substantial and material issues have been raised which can best be resolved by record evidence, I find a hearing is warranted with respect to the issues raised by Petitioner’s Objection5

Objection 8

The Employer discriminatorily prohibited off-duty employees from remaining in a public area in an effort to prevent the employees from engaging in protected, concerted activities on behalf of the Union.

In support of Objection 8, Petitioner relies on Employee A, who states on June 23, the day of the election, Supervisor Tanya Wilson instructed off-duty employees to leave a public area (the cafeteria).

The Employer denies having engaged in any objectionable conduct or that any objectionable conduct occurred.

As it appears substantial and material issues have been raised which can best be resolved by record evidence, I find a hearing is warranted with respect to the issues raised by Petitioner's Objection 8

Objection 9

The Employer, acting through its agents, acted in other manners that destroyed the conditions necessary for a fair election.

In support of Objection 9, Petitioner relies on a letter written to all employees by the Employer dated May 24, which states in part: ⁴

If you believe you are being harassed while you are on the job, by a union agent or anyone else, please report it to your supervisor or a member of management so that we can put a stop to it.

The Employer denies having engaged in any objectionable conduct or that any objectionable conduct occurred.

As it appears substantial and material issues have been raised which can best be resolved by record evidence, I find a hearing is warranted with respect to the issues raised by Petitioner's Objection 9

SUMMARY

On July 8, Petitioner requested withdrawal of its Objections 1, 3, 4, and 6. Accordingly, the undersigned approves the withdrawal of Objections 1, 3, 4, and 6. In regard to Objections 2, 5, 7, 8, and 9, it appears material and substantial issues of fact and credibility have been raised which can best be resolved on the basis of record testimony before a duly designated hearing officer. Therefore, the undersigned directs a hearing be held with respect to Objections 2, 5, 7, 8, and 9.

⁴ The entire letter of May 24 is attached as Exhibit A.

NOTICE OF HEARING

IT IS HEREBY DIRECTED, pursuant to Section 102.69 of the Board's Rules and Regulations, Series 8, as amended, that a hearing be held before a duly designated administrative law judge of the National Labor Relations Board at 9:00 a.m., E.S.T., on the 4th and 5th days of August, 2004, and if necessary, on consecutive days thereafter, in THE DIVISION OF JUDGES HEARING ROOM, NATIONAL LABOR RELATIONS BOARD, 1099 14TH STREET, N.W., 5TH FLOOR, WASHINGTON, DC, who will take testimony for the purpose of resolving the issues raised by the Petitioner's Objections 2, 5, 7, 8, and 9, at which time the parties have the right to appear in person, or otherwise, and give testimony. The administrative law judge designated for the purpose of conducting such hearing shall prepare and cause to be served upon the parties a report containing resolutions of the credibility of the witnesses, findings of fact and recommendations to the Board as to the disposition of these issues. Within 14 days from the issuance of such report, any party may file with the Board in Washington, D.C., an original and seven copies of exceptions thereto. Immediately following such exceptions the party filing the same shall serve a copy thereof on the other parties and shall file a copy with the undersigned. If no exceptions are filed thereto, the Board may decide the matter forthwith upon the record or make other dispositions of the case.

Dated at Baltimore, Maryland this 14th day of July 2004.

(SEAL)

Wayne R. Gold

Wayne R. Gold, Regional Director
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