



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

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September 1, 2022

Gerardo Colón -Nieves, President  
Union Security Officers Federal Facilities  
Urb Villa Evangelina  
Calle 5, T257  
Manati, PR 00764

Re: AHTNA  
Case 12-RC-300308

Dear Mr. Colón -Nieves:

The above-captioned case, petitioning for an investigation and determination of representative under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered.

***Decision to Dismiss:*** As a result of the investigation, I find that further proceedings are unwarranted, and I am dismissing the petitioner for the following reasons:

On July 28, 2022, Union Security Officers Federal Facilities (the Petitioner) filed a petition in the above case, seeking to represent a unit of all full-time and regular part-time security officers working for the Employer [AHTNA] on the government contract for the [United States] Coast Guard (CG) at the facility located in Aguadilla, Puerto Rico; excluding; all other employees and supervisors as defined in the Act.<sup>1</sup> The petition states that International Union, Security, Police and Fire Professionals of America (SPFPA) is the currently certified and recognized bargaining agent of the unit.

On August 3, 2022, SPFPA filed a motion to intervene in this proceeding supported by a copy of a collective-bargaining agreement between SPFPA and Centerra Group, a Constellis Company (Centerra), which was effective by its terms from November 1, 2018 until September 30, 2022. Subsequently, on August 9, 2022, SPFPA filed a motion to dismiss the petition, based on the “successor bar” doctrine. Information submitted in support of the motion to dismiss shows that on April 30, 2022, Centerra ceased operations at the United States Coast Guard facility in Aguadilla, Puerto Rico, and on May 1, 2022, AHTNA succeeded Centerra as the government contractor at that facility, and maintained the existing terms and conditions of employment for the unit employees. Further, it appears that in June

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<sup>1</sup> The petition also states that “guards” are excluded from the unit, but that appears to be an inadvertent error because the “security officers” included in the unit appear to be “guards.”

and July 2022, representatives of SPFPA and AHTNA engaged in negotiations for a collective-bargaining agreement with respect to the wages, hours, and other terms and conditions of employment of the employees in the petitioned-for unit.

On August 11, 2022, I issued an Order Postponing Hearing Indefinitely and Notice to Show Cause, notifying the parties to submit their respective positions in writing by August 18, 2022, with respect to the question as to whether the petition should be administratively dismissed based on the successor bar doctrine, or should be further processed. None of the parties submitted a response to the Notice to Show Cause.

In *UGL-UNICCO Service Co.*, 357 NLRB 801 (2011) the Board determined that the “successor bar” doctrine will apply in situations where the successor employer has abided by its legal obligation to recognize an incumbent union, but where the “contract bar” doctrine is inapplicable, either because the successor has not adopted the predecessor’s collective-bargaining agreement or because an agreement between the union and the successor employer does not serve as a bar under existing contract bar rules.<sup>2</sup> In such cases, the incumbent union is entitled to a reasonable period of time for bargaining, during which no question concerning representation that challenges its majority status may be raised through a petition for an election filed by employees, by the employer, or by a rival union; nor, during this period, may the employer unilaterally withdraw recognition from the union based on a claimed loss of majority support, whether arising before or during the period. 357 NLRB at 808. The Board recently reaffirmed the successor bar doctrine in *Hospital Menonita de Guayama, Inc.*, 371 NLRB No. 108 (June 28, 2022).

In *UGL-UNICCO*, the Board clarified that where the successor employer has expressly adopted existing terms and conditions of employment as the starting point for bargaining, without making unilateral changes, the “reasonable period of bargaining” during which the successor bar is in effect will be 6 months, measured from the date of the first bargaining meeting between the union and the successor employer. When the successor employer recognizes the union, but unilaterally announces and establishes initial terms and conditions of employment before proceeding to bargain, the “reasonable period of bargaining” during which the successor bar will be in effect will be a minimum of 6 months and a maximum of 1 year, measured from the date of the first bargaining meeting between the union and the employer. 357 NLRB at 809.

The petition herein was filed on July 28, 2022, less than 6 months before AHTNA succeeded Centerra as the employer of the unit employees on May 1, 2022, and less than 6 months after SPFPA and AHTNA started bargaining in June 2022. Pursuant to the successor bar doctrine, because a reasonable period of time for bargaining between SPFPA and AHTNA has not elapsed, the petition does not raise a question concerning representation of the employees in the petitioned-for unit. For this reason, I am dismissing the petition.

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<sup>2</sup> For example, an agreement of less than 90 days will not bar a petition, see *Crompton Co.*, 260 NLRB 417, 418 (1982), nor will an interim agreement that is intended to be superseded by a permanent agreement, see *Bridgeport Brass Co.*, 110 NLRB 997, 998 (1954).

***Right to Request Review:*** Pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the request for review must be served on each of the other parties, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. The request for review must contain a complete statement of the facts and reasons on which it is based.

***Procedures for Filing Request for Review:*** Pursuant to Section 102.5 of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site ([www.nlr.gov](http://www.nlr.gov)), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Section 102.5(e) of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. The request for review must comply with the formatting requirements set forth in Section 102.67(i)(1) of the Board's Rules and Regulations. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (**5 p.m. Eastern Time**) on **September 15, 2022**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time on September 15, 2022**.

Filing a request for review electronically may be accomplished by using the E-Filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which must also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this

proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Any party may, within 5 business days after the last day on which the request for review must be filed, file with the Board a statement in opposition to the request for review. An opposition must be filed with the Board in Washington, DC, and a copy filed with the Regional Director and copies served on all the other parties. The opposition must comply with the formatting requirements set forth in §102.67(i)(1). Requests for an extension of time within which to file the opposition shall be filed pursuant to §102.2(c) with the Board in Washington, DC, and a certificate of service shall accompany the requests. The Board may grant or deny the request for review without awaiting a statement in opposition. No reply to the opposition may be filed except upon special leave of the Board.

Very truly yours,



David Cohen  
Regional Director

cc: Office of the Executive Secretary (by e-mail)

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