UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 21

IRON MOUNTAIN RECORDS MANAGEMENT, INC.[1][1]

Employer

and Case No. 21-RD-2830

CARLOS PADILLA

Petitioner

and

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS, LOCAL NO. 542, INTERNATIONAL BROTHERHOOD OF TEAMSTERS[2][2]

Incumbent Union

and

GENERAL TRUCK DRIVERS, OFFICE, FOOD AND WAREHOUSE UNION, TEAMSTERS LOCAL 952, INTERNATIONAL BROTHERHOOD OF TEAMSTERS[3][3]

Incumbent Union

DECISION AND DIRECTION OF ELECTION

On April 13, 2007, Petitioner Carlos Padilla (hereinafter referred to as Petitioner) filed a petition for a decertification election in the instant case. The petitioned-for bargaining unit consists of couriers, record center specialists and leads employed by Iron Mountain Records Management, Inc. (hereinafter referred to as Employer) at the Employer's

[1][1] The parties stipulated to amend the petition to reflect the correct legal name of the Employer.
[2][2] The parties stipulated to amend the petition to reflect the correct legal name of Local 542.
[3][3] The parties stipulated to amend the petition to reflect the correct legal name of Local 952

facility located at 8661 Kearns Street, San Diego, CA; excluding temporary agency employees, managers and supervisors.[4][4]

A hearing was originally set to take place on April 24, 2007. On April 24, 2007, the Regional Director issued an Order indefinitely postponing the hearing, and dismissed the petition because the petitioned-for unit was not coextensive with the existing collective-bargaining unit. Pursuant to the Employer's Request for Review, by Order dated June 6, 2007, the Board reversed the dismissal and remanded the case to the Region for hearing and the issuance of a decision.

On July 3, 2007, a hearing in this matter was held before 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.

I. Issues

The Petitioner and the Employer contend that the petitioned-for unit is appropriate because the San Diego and Orange County facilities are separate units. Local 542 and Local 952 contend that the petitioned-for unit is inappropriate because it is not coextensive with the collective-bargaining agreement, in that San Diego and Orange County units have merged into one comprehensive unit.

II. Conclusion

Based on the record, and the post-hearing briefs filed by the Employer and the Unions[5][5], I find that the San Diego and Orange County units are merged. Accordingly, I

[4][4] During the hearing, it was clarified that the petitioned-for unit consists of employees employed at the Employer's three facilities located in San Diego.
[5][5] The Petitioner did not file a post-hearing brief.

shall direct a decertification election in a unit that includes leadpersons, couriers and specialists employed by the Employer at its facilities in San Diego and Orange Counties.

III. Facts

A. Background

The Employer is in the business of providing information management, records and data protection services. The Employer has various facilities in Southern California, including three facilities in San Diego and eight facilities in Orange County, the facilities at issue in this matter. The employees employed at the San Diego facilities are members of Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 542, International Brotherhood of Teamsters (hereinafter referred to as Local 542). The employees employed at the Orange County facilities are members of General Truck Drivers, Office, Food and Warehouse Union, Teamsters Local 952, International Brotherhood of Teamsters (hereinafter referred to as Local 952). Local 542 and Local 952 are collectively hereinafter referred to as Unions.

The Employer and the Unions have had a bargaining relationship since at least April 2, 1990. Prior to 1990, the Unions had a bargaining relationship with Bell & Howell Records Management Co., Inc. (hereinafter referred to as Bell & Howell), which was acquired by the Employer. Bell & Howell acquired The Bekins Records Management (hereinafter The Bekins)[6[6]], which had a bargaining relationship with the Unions.[7[7]]

[6[6]] Per the Employer's brief, the name is incorrectly spelled in the transcript.

[7[7]] The record does not contain the collective-bargaining agreement entered into by the parties. The record also does not reveal the effective date of the agreement(s).

The Employer recognized and assumed the Bell & Howell collective-bargaining agreement in existence at the time that it took over the business. The Unions, however, have been representing the bargaining unit, at a minimum, since the 1970's. The record was devoid of details involving the recognition or certification of the locals.[8[8]]

B. Collective Bargaining Agreements[9[9]]

1. Bell & Howell Agreement

The Bell & Howell Agreement was entered into by Bell & Howell and Teamsters Locals 389, 542, 692 and 952. The effective dates of this agreement were from April 1, 1986 to March 31, 1990. The contract refers to the local unions as "Union." The "Unit of Employees" provision states as follows:

> "The Employer recognizes the Union as the sole and exclusive bargaining agent for all employees within the jurisdiction of the Local Union described as follows: Records Center Supervisors; Records Center Foreman; Records Center Courier; Records Specialist; Probationary and Casual Employees."

One document was executed to cover all of the employees represented by the four local unions listed above. The terms and conditions of employment applied to all the employees represented by the locals. This agreement, and the successor agreements, however, have some language in the Union Security & Checkoff, Seniority, and

[8[8]] The Region was unable to secure the original certification. Nevertheless, I will assume for the purposes of this decision that the locals were certified as representatives of separate units.
[9[9]] The parties stipulated that the collective-bargaining agreements entered into evidence covered the facilities involved in this matter.

Grievance and Arbitration provisions that specify the jurisdiction in which the provisions will be carried out.[10[10]]

2. Employer Agreements

a. 1990-1994

In 1990, the Employer entered into a collective-bargaining agreement with Teamsters Local Union Nos. 389[11[11]], 542, 692 and 952, effective from April 2, 1990 to April 3, 1994. Again, the agreement refers to the local unions as "Union." The recognition clause also states that the "Employer recognizes the Union as the sole and exclusive bargaining agent for all employees within the jurisdiction of the Local Union described as follows: Leadperson; Courier; Specialist."

b. 1994-1997

The Employer entered in a successor collective-bargaining agreement with Teamsters Local Union Nos. 542, 952 and 986. The language of the recognition clause did not change from the prior agreement, with the exception of the local numbers; and the same terms and conditions of employment applied to all the employees represented by the locals, as described above.

[10[10]] For instance, in the Union Security & Checkoff provision, it was agreed that the Employer would deduct union dues from the employees and forward the payments to the local having jurisdiction over that employee; and each jurisdiction would have their own shop stewards. With regard to seniority, the provision states that each jurisdiction would have its own seniority lists, except that seniority for holidays, vacations and fringe benefits shall be based upon the length of continuous employment with the Employer. With regard to the Grievance and Arbitration provision, the written grievance will be filed with the local who has jurisdiction over the location of employment of the grievant.

[11[11]] The parties stipulated that Local 389 merged into Local 986.

c. 1997-2000

The Employer entered in a successor collective-bargaining agreement with Teamsters Local Union Nos. 542, 952 and 598[12][12]. The language of the recognition clause did not change from the prior agreement; and the same terms and conditions of employment applied to all the employees represented by the locals, as described above. However, this agreement contained a Memorandum of Understanding between the Employer and Local 542, establishing a separate health and welfare provision for employees represented by Local 542.

c. 2000-2003

In 2000, the Employer entered into a collective-bargaining agreement with the Unions.[13][13] The recognition clause did not change and the same terms and conditions of employment applied to all the employees represented by the locals, as described above. Again, this agreement contains a Memorandum of Understanding, establishing a separate health and welfare provision for employees represented by Local 542.

This agreement also contained a Letter of Understanding Regarding Pierce Acquisition. This letter of understanding established, in pertinent part, that the Employer was acquiring an entity named Pierce Leahy Corp. (hereinafter referred to as Pierce), effective February 1, 2000; that the Employer and Pierce are a single employer; that the employees employed by the Employer and Pierce within the jurisdiction of San Diego County constitute a single appropriate bargaining unit; that effective July 1, 2000, the Employer would recognize Local 542 as the exclusive collective-bargaining representative of the former Pierce

[12][12] The parties stipulated that Local 598 merged into Local 578 and negotiated a separate 2000-2004 agreement. The record revealed that the Employer bargained separately with Local 578 because the Employer was acquiring Pierce Leahy, which included a number of employees in the Los Angeles area. The Employer wanted an agreement with Local 578 by the time that the Pierce acquisition was complete. Local 578 agreed to negotiate and have a separate contract with the Employer. A separate agreement was reached between the Employer and Local 578 on about January 2000.

[13][13] No other local union was part of this agreement.

employees hired by the Employer who are performing bargaining unit work; and that the agreement in effect as of April 1, 2000 would be applicable to all such Pierce work and employees as of July 1, 2000.

d. 2003-2006

In 2004, the Employer and the Union entered into an agreement, effective April 1, 2003 to March 31, 2006. The language of the recognition clause did not change from the prior agreement. As with the prior agreement, Local 542 had a separate and different health and welfare provision. The remaining terms and conditions of employment remained the same, as described above.

As part of the negotiations, the parties agreed that employees represented by Local 542 would receive a $400 bonus. Employees represented by Local 952 would receive a $500 bonus. The difference in bonus amounts was tied to the difference in the locals' health and welfare trusts.

The 2003-2006 agreement has been extended by the parties, who are presently in negotiations for a successor collective-bargaining agreement.

B. Bargaining History

1. Negotiations and Agreement from 1981-1985

The record revealed that, since at least 1981, "The Bekins," one of the Employer's predecessors, engaged in joint contract negotiations with the Unions. Prior to 1981, the Employer was part of a multi-employer bargaining unit. The legal counsel of The Bekins testified that in 1981, it was his understanding that the San Diego and Orange County units were separate, but engaged in joint negotiations for convenience; that the Unions did not contend that the units were merged; that the agreement that San Diego was part of, had its

own seniority list; and that the employees paid their union dues to their respective local. When adjusting grievances, The Bekins' legal counsel only dealt with the representative from the San Diego local, and he did not deal with the Orange County local in the grievance process. He did not recall whether the ratification vote during that time was pooled. When Bell & Howell acquired The Bekins, he did not remain legal counsel.

2. Ratification of 1997-2000 Agreement[14][14]

The record revealed that the ratification of the 1997-2000 agreement consisted of simultaneous voting in San Diego and Orange County. After the voting, the votes were pooled and the announcement was made regarding the outcome of the ratification vote.

3. Negotiations for 2003-2006 Agreement and Ratification

The record revealed that the Employer and the Unions engaged in joint contract negotiations for the 2003-2006 agreement. During these contract negotiations, the Employer's representatives had conversations with the Unions' representatives about separating contract negotiations between Local 542 and Local 952. The Unions rejected the proposal, and joint negotiations continued, leading to the 2003-2006 agreement.

The 2003-2006 agreement went through two ratification votes, and in both votes, the ballots were pooled. The Employer was aware of the Unions' ratification process.

[14][14] The record did not discuss negotiations between 1985 and 1997.

4. Negotiations for Successor Agreement

The record revealed that in anticipation of the expiration of the 2003-2006 contract, Local 542 sent a letter to the Employer, dated February 16, 2006, on behalf of Local 542 and Local 952, requesting available dates for the Employer to negotiate a successor contract. The Employer responded by letters dated March 14, 2006, to each local, proposing to extend the contract, and asking each local for their availability for contract negotiations. On or about March 23, 2006, Local 952 mailed an executed extension agreement to the Employer, and provided a copy to Local 542. On March 29, 2006, the Employer signed the extension agreement for each local separately.

On April 13, 2006, Local 542, e-mailed the Employer, requesting that the Employer provide dates of availability to begin negotiations for a successive contract. On this same day, the Employer responded that the Union should inform of available dates. The Employer noted:

> "Please note that we intent (sic) to negotiate your contract separately from Orange County, so you do not need to coordinate your dates with Eric Henry. This will allow us to meet with your members locally, without them (and you) having to travel to Orange County."

In a letter, dated April 28, 2006, the Unions addressed the Employer's e-mail. The Unions' letter states, in pertinent part, as follows:

> "We also want to inform you that it is both Local's position that negotiation meetings need to be jointly as they have been in the past.
>
> Should you insist on having separate negotiation sessions, it is both Teamsters Local 542 and Teamsters Local 952's intention to attend each other's negotiation meetings. As we negotiate, any and all proposals brought up to the table will be discussed and considered by both Teamster Locals before a decision is made on them."

The record reveals that on or about April 28, 2006, the Employer and a representative from Local 952 discussed the impending negotiations. The Unions revealed that, if contract negotiations were separate, the Unions nevertheless intended to attend each other's contract negotiations, make identical proposals and coordinate agreeing to proposals, so that one local did not agree to a proposal unless the other did, as well. Thus, the representative submitted that they could save time by bargaining jointly. The Employer then agreed to begin joint bargaining.

The bargaining sessions for the successor contract began on about June 6, 2006 or June 16, 2006. At the first meeting, the Employer declared that its position is that the San Diego and the Orange County units are separate and that the bargaining with the locals would be separate. The Employer explained that the San Diego group was a large-enough unit so that it could have its own contract, so as to engage in separate contract negotiations. The Employer noted that in past negotiations, there have been issues that differed between Local 542 and 952. The Employer further expressed its willingness to bargain jointly, but reserved the right to revisit the matter during the negotiations.

The Unions rejected the Employer's proposal, explaining that they were signatory to one agreement; that the terms and conditions of employment are the same for both groups, with the exception of the health and welfare section; and that they shared a history of joint negotiations. The Unions also stated that they did not see any reason to change the practice of joint negotiations and would not discuss the matter further. At some point, the Unions also stated that there was strength in numbers and that they intended to bargain on behalf of the larger group.

IV. Analysis

A. Board Standard

It is well established that a decertification petition must be coextensive with the recognized or certified bargaining unit. Arrow Uniform Rental, 300 NLRB 246, 247 (1990); Mo's West, 283 NLRB 130 (1987); Delta Mills, 287 NLRB 367, 368 (1987); Campbell Soup Co., 111 NLRB 234 (1955). In some cases, the issue arises as to whether a group of employees, initially certified by the Board or recognized through bargaining, has subsequently merged with another group of employees into a different unit so that the merged unit becomes the appropriate unit in a decertification or other representation proceeding. J & L Plate, 310 NLRB 429 (1993). The burden of rebutting that presumption rests on the party requesting a multi-facility unit.

The Board has long recognized a "merger doctrine" whereby an employer and a union can agree to merge separately certified or recognized units into one overall unit. Wisconsin Bell, Inc., 283 NLRB 1165 (1987); White-Westinghouse Corp., 229 NLRB 667 (1977). Thus, as a general rule, a decertification petition for a single-facility unit will be found inappropriate if the bargaining history reflects that the single-facility unit has been merged into a larger multi-facility unit. Wisconsin Bell, Inc., 283 NLRB at 1165-66. To determine if such a merger has occurred, the Board will look to what the collective-bargaining agreement says about the unit; the bargaining history between the union and the employer; how long the merged unit had bargained separately compared with how long it has been part of the multi-facility unit; whether the different locations have the same terms and conditions of employment; and whether the employees had an opportunity to participate in the multi-facility negotiation process. Albertson's, 307 NLRB 338 (1992).

B. Application of Board Standard to the Facts

1. The Collective-Bargaining Agreement and the Unit

In determining whether there exists unmistakable evidence of the parties' mutual agreement to merge groups of employees into a single unit, the Board first examines the language of the parties' contractual recognition clause to determine the parties' intent. In cases where the language of the recognition clause clearly describes a merged unit, the Board has generally found that a merger has taken place. The Green-Wood Cemetery, 280 NLRB 1359 (1986); Gibbs & Cox, Inc., 280 NLRB 953 (1986); Armstrong Rubber Company, 208 NLRB 513 (1974); W.T. Grant Co., 179 NLRB 670 (1969). In cases where the recognition clause specifically refers to separate units or is ambiguous, the Board generally has not found that a merger has taken place absent other evidence establishing the parties' intent to merge existing units. Arrow Uniform Rental, supra; Sears Roebuck and Co., 253 NLRB 211 (1980); Duval Corporation, 234 NLRB 160 (1978); Remington Office Machines, 158 NLRB 994, 996 (1966); Metropolitan Life Insurance Company, 172 NLRB 1257 (1968).

In the present case, the record does not reveal the details of the original recognition or certification involving the groups of employees. However, a review of the 2003-2006 agreement, which is the most recent collective-bargaining agreement, reveals that Local 542 and Local 952 are referred to as the "Union," which the "Employer recognizes . . . as the sole and exclusive bargaining agent for all employees within the jurisdiction of the Local Union described as follows: Leadperson; Courier; Specialist." By referring to the locals as "Union," and stating that it was recognized as the exclusive collective-bargaining representative of the employees within the jurisdiction of the locals, it implies that the group of employees was to be treated as one. By designating the locals and the jurisdiction, the

parties were merely dealing with the administration of the agreement for convenience purposes. Thus, this recognition language unambiguously establishes the existence of a single multi-location bargaining unit. Arrow Uniform Rental, supra.

2. Bargaining History

a. Prior Agreements

The record shows that from the Bell & Howell agreement to the most current agreement, there have been multiple union locals that have been parties to the agreement, and that the recognition clause has been essentially the same throughout. Although the unit description has changed, the three categories of employees involved in this matter have always been included. Therefore, since at least 1981, the locals have negotiated jointly, becoming parties to a single agreement.

b. Contract Negotiations

The record discloses that since at least 1986, the Employer's predecessor and the Union, with other locals, have bargained jointly. While the Employer expressed its desire to bargain separately with Local 542 and Local 952, and to enter into separate agreements, the Unions have consistently rejected that proposal, and that the Employer acquiesced. Thus, the parties have bargained jointly and entered into one agreement.[15[15]]

c. Length of Time Engaging in Joint Negotiations

The record reveals that the Unions have engaged in joint bargaining with the Employer's predecessors since at least 1986, and with the Employer since 1990. There is no evidence in the record that the Employer's predecessor, or the Employer, ever bargained

---

[15[15]] The Employer relied on some of the language in the Letter of Understanding Regarding Pierce Acquisition in the 2000-2003 agreement to support its position that the San Diego and Orange County groups are separate units. In that same Letter, however, the parties agreed that the 2000-2003 agreement applied to the former Pierce employees represented by Local 542. The fact that Letter was a part of the agreement negates the argument that the groups were separate units.

separately with the Union or that they ever negotiated wherein the San Diego and Orange County groups were considered separate units. The lack of deviation from the past practice of joint bargaining supports a conclusion that the units are merged, and have been since at least 1981.[16][16]

d. Terms and Conditions of Employment

The record shows that the same terms and conditions of employment have applied to the San Diego and Orange County groups. The fact that the 2000-2003 and 2003-2006 agreements show that Local 542 has a different health and welfare plan, and that the Union Security & Checkoff, Seniority and Grievance and Arbitration provisions specify the jurisdiction to administer those terms and conditions of employment is insufficient to conclude that the units are separate. Armstrong Rubber Company, supra at 514.

In addition, the fact that the employees received different bonus amounts in the 2003-2006 agreement is also insufficient to show that the units are separate, as the amounts were connected to the different health and welfare provisions. Since the health and welfare provisions are different, it is expected that the bonus would also be different.

[16][16] The Employer, citing Swift & Company, 124 NLRB 50(1959) and Metropolitan Life Insurance Co., 172 NLRB 1257 (1968), argues that the parties negotiated jointly for convenience only. The record, however, does not support the Employer's contention. In the cases cited by the Employer, the parties used unambiguous language separating the groups and identifying the terms and conditions of employment that applied to each group of employees. Under those circumstances, it was concluded that no merger could be found. In contrast, in the present case, as is noted above, the parties (with the exception of the health plans) adopted one set of terms and conditions of employment which applied to all of the employees in both San Diego County and in Orange County. Accordingly, the cases cited by the Employer are inapplicable to the instant scenario.

Moreover, the bonus was negotiated jointly, and both locals had to be in agreement with the amount in order to have an agreement. Thus, the fact that the majority of the terms and conditions of employment have been the same for the employees in both jurisdictions indicates that the units are merged.

e. Employee Participation in the Multi-Facility Negotiation Process

The record revealed that the employees have consistently engaged in simultaneous voting and that their votes have always been pooled. Thus, the polled voting demonstrates the Unions' continued intent to treat the units as one, and that the units are merged.[17][17]

V. Conclusion

The record overwhelmingly supports a finding that the San Diego and Orange County units are merged. The language in the recognition clause of the most recent collective-bargaining agreement, as well as prior agreements, unambiguously establish that the bargaining unit is a multi-facility unit. Moreover, the bargaining history shows a practice of engaging in joint negotiations, that the parties have consistently been signatories to one single agreement which terms and conditions apply to all the employees in both units, and that employees have voted on the ratification of the contracts in elections where the votes have been pooled as to announce one outcome.

VI. Findings

---

[17][17] The Employer argued in its brief, that the pooling of ratification votes in this case should not be considered by the Acting Regional Director, as Board law discounts pooling of votes as evidence of the parties' intent to merge units. Duval Corporation, 234 NLRB 160, 161 (1978). This argument is not persuasive. In Duval, the ratification vote and uniform terms and conditions of employment were discounted mainly because the recognition clause used language demonstrating the parties' intent to separate the units. In the present case, the opposite is true, for the recognition clause in the agreements involved herein all contain language of the parties' intent to merge the units, as described above.

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. The parties stipulated that the Employer, a Delaware corporation, with its principal offices located in Boston, Massachusetts and facilities located in San Diego[18][18] and Orange County[19][19], the only facilities involved herein, is engaged in the business of providing information management, records management and data protection services. During the past 12-months, a representative period, the Employer derived gross revenues in excess of $500,000 and purchased and received at its San Diego and Orange County facilities goods valued in excess of $50,000 directly from suppliers located outside the State of California. Based on the stipulation of the parties and the record as a whole, I find that the Employer is engaged in commerce within the meaning of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction herein.

3. Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 542, International Brotherhood of Teamsters, hereinafter referred to as Local 542, is a labor organization within the meaning of the Act.

4. General Truck Drivers, Office, Food and Warehouse Union,

---

[18][18] The parties stipulated that the address for the San Diego facilities are as follows: at 6935 Flanders Drive, San Diego, CA; 2607 Island View Way, Vista, CA; and 2661 Kearns Street, San Diego, CA.

[19][19] The parties stipulated that the address for the Orange County facilities are as follows: 13379 Jurupa Avenue, Fontana, CA; 700 Burning Tree Road, Fullerton, CA; 600 Burning Tree Road, Fullerton, CA; 1760 St. Thomas Circle, Orange, CA; 1915 South Grand Avenue, Santa Ana, CA; 15151 Don Julian Road, City of Industry, CA; and 16028 South Marquardt, Cerritos, CA. The records reveals that there are eight facilities in Orange County involved in this matter, but only seven addresses were provided on the record. The Union's brief lists an eighth location at 691 Burning Tree Road, Fullerton, CA.

Teamsters Local 952, International Brotherhood of Teamsters, hereinafter referred to as Local 952, is a labor organization within the meaning of the Act.

5. I find that the following unit is the appropriate unit for the purposes of collective bargaining:

> All full-time and regular part-time couriers, record center specialist and leads employed by the Employer at its facilities located in San Diego and Orange Counties; excluding all other employees, office clerical employees, guards and supervisors as defined in the Act.[20][20]

There are about 123 employees in the appropriate unit.

DIRECTION OF ELECTION[21][21]

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 wish to be represented for collective bargaining purposes by **Teamsters, Chauffeurs, Warehousemen and Helpers, Local No. 542, International Brotherhood of Teamsters** and **General Truck Drivers, Office, Food and Warehouse Union, Teamsters Local 952, International Brotherhood of Teamsters**. 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 are those in the unit who are employed during the payroll

---

[20][20] The parties stipulated as to the exclusions. At the hearing, the Petitioner expressed a desire to proceed to an election in any alternate unit deemed appropriate.

[21][21] Petitioner has 14 days from the issuance of this decision to either make a sufficient showing of interest in the unit herein found appropriate, which is larger than the petitioned-for unit, or to withdraw his petition. If he does neither by August 6, 2007, I intend to dismiss the petition due to lack of sufficient showing of interest in the appropriate unit.

period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off, are eligible to vote. 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 a strike, who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced are ineligible to vote.

B. Employer to Submit List of Eligible Voters

In order to assure 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 that may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office two copies of an alphabetized election eligibility list, containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359 (1994). This list must be in sufficiently large type to be clearly eligible. I shall use this list initially for the administrative investigation into the showing of interest. I shall, in turn, make the list available to all parties to the election, only after I have determined that an adequate showing of interest has been submitted.

In order to be timely filed, such list must be received in Region 21, 888 South Figueroa Street, 9th Floor, Los Angeles, California 90017-5449, **on or before** July 31, 2007. No extension of time to file this 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, nor shall the filing of a request for review operate to stay the requirement here imposed. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission to (213) 894-2778. Since the list is to be made available to all parties to the election, please furnish a total of 4 copies, unless the list is submitted by facsimile, in which case only one copy need be submitted.

C. Notice of Posting Obligations

According to Board Rules and Regulations, Section 103.21, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of three (3) working days prior to the day of the election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least five (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.

D. Notice of Electronic Filing

In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with the Board in Washington, D.C. If a party wishes to file one of these documents electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov" in the National Labor Relations website: www.nlrb.gov.

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, DC 20570. The Board in Washington must receive this request by 5:00 p.m., EDT, on August 7, 2007. This request may **not** be filed by facsimile.

DATED at Los Angeles, California this 24th day of July, 2007.

[/s/ James F. Small]
James F. Small, Acting Regional Director
National Labor Relations Board
Region 21
888 South Figueroa Street, 9th Floor
Los Angeles, CA 90017