

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 8

CASE FARMS PROCESSING, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS  
UNION, LOCAL NO. 880

CASE NOS. 8-CA-37850  
8-CA-38244  
8-CA-38285  
8-CA-38412  
8-CA-38439

**MOTION TO THE NATIONAL LABOR  
RELATIONS BOARD FOR DEFAULT JUDGMENT**

Counsel for the General Counsel respectfully moves the National Labor Relations Board, herein the Board, for default judgment in the above cases, requesting that the allegations in the Fourth Amended Consolidated Complaint issued in these matters be found to be true, that the Board make findings of fact and conclusions of law based upon these allegations and that the Board issue an appropriate Decision and Order.

**MEMORANDUM IN SUPPORT**

I. Procedural History

An Order Consolidating Cases, Order Revoking Informal Settlement Agreement, Third Amended Consolidated Complaint and Notice of Hearing, issued in these cases on November 30, 2009. (Exhibit A) Prior to hearing, Case Farms Processing, Inc., herein called the Respondent, and United Food and Commercial Workers Union, Local No. 880, herein called the Charging Union, reached a non-Board settlement in all the Section 8(a)(1) and (3) allegations contained in these cases and the corresponding Third Amended Consolidated Complaint. As a result, the

Charging Union requested withdrawal of the charges in Case Nos. 8-CA-38340, 8-CA-38380, 8-CA-38381 and 8-CA-38400 and partial withdrawal in Case Nos. 8-CA-37850, 8-CA-38285 and 8-CA-38439.

On June 11, 2010, an Order Approving Withdrawal or Partial Withdrawal in Case Nos. 8-CA-37850, 8-CA-38285, 8-CA-38340, 8-CA-38380, 8-CA-37381, 8-CA-38400 and 8-CA-38439, Withdrawal of Settled Allegations from the Third Amended Consolidated Complaint and Order Severing Cases issued in these matters. (Exhibit B)

A Fourth Amended Consolidated Complaint and Notice of Hearing, herein called Fourth Complaint, issued on June 16, 2010 in Case Nos. 8-CA-37850, 8-CA-38244, 8-CA-38285, 8-CA-38412 and 8-CA-38439. (Exhibit C) As set forth in the Fourth Complaint, June 30, 2010 was the deadline for Respondent's answer. The Fourth Complaint stated that if no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Fourth Complaint are true.

By letter dated June 24, 2010, the Respondent acknowledged being served with the Fourth Complaint. (Exhibit D) The Respondent further notified the Region in its letter that it would not be filing an answer to the Fourth Complaint, and also withdrew its answers to all previous complaints issued with respect to the cases upon which the Fourth Complaint issued. Respondent stated the it understood that as a result of its decision not to file an answer to the Fourth Complaint, the Region would file a motion for default judgment in these cases. Lastly, Respondent advised the Region that it did not intend to contest such a motion.

## II. Legal Analysis

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted to be true if an answer is not filed within 14 days from

service of the complaint. Respondent has informed the Region, by its letter of June 24, 2010, that it will not file an answer and that it will not contest the Region's motion for default judgment.

The Board has granted motions for default judgment in cases where the Respondent has notified the Region that it will not file an answer. *See, e.g., Gen. Bus. Supply*, 352 NLRB No. 81 (2008) (Respondent informed Region that because of the involuntary Chapter 7 bankruptcy filing it was not in a position to file a response).

Under the circumstances as set forth above, the Board should grant the instant Motion for Default Judgment, find that the allegations in the Fourth Complaint are true and issue an appropriate Decision and Order. A proposed Notice to Employees is attached. (Exhibit E)

Dated at Cleveland, Ohio this 29<sup>th</sup> day of June, 2010.

Respectfully submitted,

/s/ Melanie R. Bordelois

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Melanie R. Bordelois  
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National Labor Relations Board  
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**CERTIFICATE OF SERVICE**

This Motion for Default Judgment was filed with the National Labor Relations Board, Office of the Executive Secretary utilizing E-File on this 29<sup>th</sup> day of June 2010.

An electronic copy of this Motion for Default Judgment was transmitted by electronic mail to David E. Schreiner at dschreiner@millisor.com, Mark Rock at mrock@ufcwlocal880.com and to Tim Mullins at timunion34@hotmail.com on this 29<sup>th</sup> day of June 2010.

/s/ Melanie R. Bordelois

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UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 8

CASE FARMS PROCESSING, INC.

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UNION, LOCAL NO. 880

CASE NOS. 8-CA-37850  
8-CA-38244  
8-CA-38285  
8-CA-38340  
8-CA-38380  
8-CA-38381  
8-CA-38400  
8-CA-38412  
8-CA-38439

**ORDER CONSOLIDATING CASES, ORDER REVOKING  
INFORMAL SETTLEMENT AGREEMENT,  
THIRD AMENDED CONSOLIDATED COMPLAINT AND NOTICE OF HEARING**

Based on a charge filed in Case No. 8-CA-37850 by the United Food and Commercial Workers Union, Local No. 880, herein called the Charging Union, a Complaint and Notice of Hearing issued on December 31, 2008 against Case Farms of Ohio, Inc., now known as Case Farms Processing, Inc., herein called Respondent, which charge was the subject of an informal settlement agreement approved on February 20, 2009. Based on subsequent charges filed in Case Nos. 8-CA-38244, 8-CA-38285, 8-CA-38340, 8-CA-38380 and 8-CA-38381 by the Charging Union, an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing issued on July 31, 2009 against Respondent. Thereafter, based on an additional charge filed in Case No. 8-CA-38400 by the Charging Union, an Order Consolidating Cases, Amended

**EXHIBIT A**

Consolidated Complaint and Notice of Hearing issued on August 18, 2009 against Respondent. Subsequently, based on two charges filed in 8-CA-38412 and 8-CA-38439 by the Charging Union, an Order Consolidating Cases, Second Amended Consolidated Complaint and Notice of Hearing issued on September 30, 2009 against Respondent. Based thereon, and in order to avoid unnecessary costs or delay, the General Counsel, by the undersigned, pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, ORDERS that all the aforementioned cases, including Case No. 8-CA-37850, are consolidated.

These cases having been consolidated, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Sections 101.9(e)(2) and 102.15 of the Board's Rules and Regulations, herein called the Board, issues this Order Consolidating Cases, Order Revoking Settlement Agreement, Third Amended Consolidated Complaint and Notice of Hearing and alleges as follows:

1. (A) The charge in 8-CA-37850 was filed by the Charging Union on July 16, 2008, and a copy was served by mail on Respondent on July 17, 2008.

(B) The amended charge in 8-CA-37850 was filed by the Charging Union on September 19, 2008, and a copy was served by mail on Respondent on September 23, 2008.

2. (A) The charge in 8-CA-38244 was filed by the Charging Union on April 3, 2009, and a copy was served by mail on Respondent on April 7, 2009.

(B) The amended charge in 8-CA-38244 was filed by the Charging Union on June 18, 2009, and a copy was served by mail on Respondent on June 18, 2009.

3. (A) The charge in 8-CA-38285 was filed by the Charging Union on April 22, 2009, and a copy was served by mail on Respondent on April 22, 2009.

(B) The amended charge in 8-CA-38285 was filed by the Charging Union on June 24, 2009, and a copy was served by mail on Respondent on June 24, 2009.

4. (A) The charge in 8-CA-38340 was filed by the Charging Union on May 18, 2009, and a copy was served by mail on Respondent on May 19, 2009.

(B) The amended charge in 8-CA-38340 was filed by the Charging Union on July 29, 2009, and a copy was served by mail on Respondent on July 29, 2009.

5. The charge in 8-CA-38380 was filed by the Charging Union on June 10, 2009, and a copy was served by mail on Respondent on June 10, 2009.

6. The charge in 8-CA-38381 was filed by the Charging Union on June 10, 2009, and a copy was served by mail on Respondent on June 10, 2009.

7. The charge in 8-CA-38400 was filed by the Charging Union on June 24, 2009, and a copy was served by mail on Respondent on June 24, 2009.

8. (A) The charge in 8-CA-38412 was filed by the Charging Union on June 30, 2009, and a copy was served by mail on Respondent on July 1, 2009.

(B) The amended charge in 8-CA-38412 was filed by the Charging Union on July 21, 2009, and a copy was served by mail on Respondent on July 21, 2009.

(C) The second amended charge in 8-CA-38412 was filed by the Charging Union on September 29, 2009 and a copy was served by mail on Respondent on September 29, 2009.

9. (A) The charge in 8-CA-38439 was filed by the Charging Union on July 14, 2009, and a copy was served by mail on Respondent on July 15, 2009.

(B) The amended charge in 8-CA-38439 was filed by the Charging Union on September 22, 2009, and a copy was served by mail on Respondent on September 23, 2009.

10. (A) At all material times, Respondent, an Ohio corporation, with a place of business located at 1818 County Road 160, Winesburg, Ohio, herein called Respondent's facility, has been engaged in the business of raising and processing chickens.

(B) Annually, in the course and conduct of its business, the Respondent sells and ships goods valued in excess of \$50,000 directly to points located outside the State of Ohio.

11. At all material times Respondent has been an employer engaged in commerce within the meaning of Section 2(2), 2(6) and 2(7) of the Act.

12. At all material times, the Charging Union has been a labor organization within the meaning of Section 2(5) of the Act.

13. At all material times the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Paul Nelson – Plant Manager  
Guillermo Ibarra – Human Resource Manager  
Armando Campos – Human Resource Manager  
Bill McAfee - Supervisor  
Paul Storsin – Supervisor  
Sharon Jellel – Second Processing Manager  
Pedro Valdez – Supervisor  
Angel Melendez Garcia – Supervisor  
Jonathan Martinez Castro – Supervisor  
Barbara Gomez – Supervisor

14. At all material times the following individuals held the positions set forth opposite their respective names and have been agents of Respondent within the meaning of Section 2(13) of the Act:

Shalia Cruz-Camacho – Receptionist  
Stephanie Ajanel – Human Resources Representative  
Dawn Morales – Human Resources Representative  
Edicta Garcia – Production Employee  
Andrea Summers – Receptionist

Rose Angela Rivera – Custodian  
Antonio Espanol – Trainer

15. On or about June 28, 2008, the Respondent, by its supervisor and agent Armando Campos, unlawfully interrogated employees about their union activities outside of the Super 8 motel located near the Respondent's facility.

16. At a new employee training meeting on or about June 12, 2008, the Respondent, by its supervisor and agent Armando Campos:

(A) unlawfully threatened employees that no wage increases would be granted as long as the Charging Union was at the facility;

(B) made unlawful statements of futility by telling employees that the Charging Union could not help employees; and

(C) coercively informed employees that the Respondent had eliminated the union at its North Carolina plant by hiring Puerto Rican employees to remove the union and coercively informed employees that the Respondent brought the new employees to Respondent's facility to remove the Charging Union.

17. On or about August 5, 2008, the Respondent, by its supervisor and agent Sharon Jellel, unlawfully created the impression that employees' protected activities were under surveillance.

18. Since on or about March 19, 2009, and continuing thereafter, including but not limited to the conduct as set forth in paragraphs 19, 27, 28 and 29, Respondent, by its supervisors and/or agents, has unlawfully solicited, participated in, sponsored and/or provided more than ministerial aid in the preparation of and circulation of decertification petitions and cards and/or otherwise unlawfully assisted in activities to decertify the Charging Union as the representative of its employees.

19. On or about March 19, 2009, the Respondent, by its agent Edicta Garcia, at Respondent's facility:

(A) unlawfully coerced employees by telling them that there would be no jobs for them if they did not sign a decertification petition; and

(B) unlawfully threatened an employee that he would not have a job if he did not sign a decertification petition.

20. On or about March 24, 2009, the Respondent, by its agent and supervisor Stephanie Ajanel, at Respondent's facility, unlawfully created the impression that an employee's protected activities were under surveillance.

21. On or about March 24, 2009, the Respondent, by its agent and supervisor Pedro Valdez, unlawfully interrogated an employee about the employee's union and/or protected concerted activities.

22. On or about April 14, 2009, the Respondent, by its agent and supervisor Armando Campos, at Respondent's facility:

(A) unlawfully threatened an employee with discipline in retaliation for the employee's union and/or protected concerted activity;

(B) unlawfully created the impression that an employee's protected activities were under surveillance; and

(C) coercively informed an employee that she was talking to other employees too much, in order to discourage the employee's union and/or protected concerted activity.

23. On or about April 20, 2009, the Respondent, by its agents and supervisors Paul Nelson, Pedro Valdez, Sharon Jellel and Armando Campos, and its agent Antonio Espanol, at

Respondent's facility, held a coercive meeting with an employee in retaliation for the employee's union and/or protected concerted activity.

24. On or about April 20, 2009, the Respondent, by its agent and supervisor Armando Campos, at Respondent's facility, unlawfully threatened to discipline an employee because of his union and/or protected concerted activities.

25. On or about May 27, 2009, the Respondent, by its agent and supervisor Armando Campos, at Respondent's facility:

(A) threatened an employee with termination in retaliation for his union and/or protected concerted activities; and

(B) coercively informed an employee that the Respondent had problems with the Respondent's employees because the Charging Union wanted to represent the employees at the Respondent's facility.

26. In or around May 2009, the exact date being unknown, the Respondent, by its agent and supervisor Paul Storsin, at Respondent's facility, unlawfully interrogated an employee about his protected activities and the protected activities of other employees.

27. On or around June 3, 2009, the Respondent, by its agents Andrea Summers and/or Rose Angela Rivera, at Respondent's facility:

(A) held a coercive meeting with an employee in an attempt to coerce the employee to sign a decertification petition;

(B) coercively urged an employee to sign a decertification petition; and

(C) coercively placed an employee's name on a decertification petition over that employee's objections.

28. On or around June 6, 2009, the Respondent, by its agent and supervisor Armando Campos, in the lunchroom at Respondent's facility:

(A) unlawfully promised an employee that the employees would get a raise if they got rid of the Charging Union;

(B) coercively informed an employee that since he removed his name from a decertification petition, the Respondent would no longer assist the employee if he had problems with his coworkers; and

(C) unlawfully threatened an employee with termination because the employee had removed his name from a decertification petition.

29. On or around July 15, 2009, the Respondent, by its agents Andrea Summers and/or Edicta Garcia, at Respondent's facility:

(A) coercively urged employees to sign a decertification petition; and

(B) unlawfully promised that the Respondent would give the employees a raise if they signed a decertification petition.

30. (A) On or about July 16, 2008, the Respondent indefinitely suspended, pending termination, and has effectively terminated the employment of its employee, Isidro Arreguin.

(B) Respondent engaged in the conduct described above in paragraph 30(A) because Arreguin assisted the Charging Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

31. (A) On or about the dates set forth opposite their names, the Respondent, disciplined the employees named below:

Leslie Castillo	April 14, 2009
Adolfo Jimenez	April 20, 2009
Julian Castillo	May 27, 2009

(B) Respondent engaged in the conduct described above in paragraph 31(A) because Leslie Castillo, Adolfo Jimenez and Julian Castillo assisted the Charging Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

32. (A) From on or about July 17, 2008 to on or about April 13, 2009, certain employees of Respondent represented by the Charging Union and employed at Respondent's facility, ceased work concertedly and engaged in a strike.

(B) On or about March 24, 2009, Respondent, by its agent and supervisor Armando Campos, coercively required Martinez Gonzalez to sign a resignation form.

(C) About April 6, 2009, by the Charging Union, employees including the following employees, who had engaged in the strike described above in paragraph 32(A), made an unconditional offer to return to work at Respondent's facility:

Obryan Delgado Figueroa  
Giovanny Baez  
Michael Martinez Gonzalez

(D) Since about April 13, 2009, Respondent, by its agent and supervisor Armando Campos, has failed and refused to offer to reinstate Delgado Figueroa, Baez and Martinez Gonzalez at Respondent's facility.

(E) On or about April 13, 2009, Respondent, by its agent and supervisor Armando Campos, coercively required Delgado Figueroa and Baez to sign resignation forms.

(F) On or about April 13, 2009, Respondent, by its agent and supervisor Armando Campos, required Delgado Figueroa and Baez to submit new employment applications if they wanted to work at Respondent's facility.

(G) Respondent engaged in the conduct described above in paragraphs 32(B), (D) (E) and (F) because Delgado Figueroa, Baez and Martinez Gonzalez assisted the Charging Union

and engaged in concerted activities, and to discourage employees from engaging in these activities.

33. By the conduct described above in paragraphs 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 and their subparagraphs, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

34. By the conduct described above in paragraphs 30, 31 and 32 and their subparagraphs, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

35. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

36. (A) In disposition of Case No. 8-CA-37850, Respondent and Charging Union entered into an informal settlement agreement that addressed the allegations set forth in paragraphs 15, 16 and 17, which settlement was approved on February 20, 2009.

(B) By the conduct described above in paragraphs 18 through 32, Respondent violated the terms of the settlement agreement described above in paragraph 36(A), accordingly, the undersigned,

ORDERS, pursuant to Section 101.9(e)(2) of the Board's Rules and Regulations and Statements of Procedure, that the settlement agreement described above in paragraph 36(A) is vacated and set aside.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraphs 30 and 32 and their subparagraphs the General Counsel seeks an Order requiring that

Respondent preserve and, within 14 days of a request, provide at the office designated by the Board or its agents, a copy of all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this order. If requested, the originals of such records shall be provided to the Board or its agents in the same manner. General Counsel further seeks as a remedy an Order requiring that any monetary remedy include compounded interest on a quarterly basis.

The General Counsel further seeks all other relief as may be appropriate to remedy the unfair labor practices alleged.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the third amended consolidated complaint. The answer must be **received by this office on or before December 14, 2009, or postmarked on or before December 12, 2009.** Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on the **E-Gov tab**, select **E-Filing**, and then follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer 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. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to Motion for Default Judgment, that the allegations in the third amended consolidated complaint are true.

### **NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on the 22<sup>nd</sup> day of February 2010, at 1:00 p.m., in a hearing room of the National Labor Relations Board, 1695 AJC Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this third amended consolidated complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Cleveland, Ohio this 30<sup>th</sup> day of November 2009.

/s/ Frederick J. Calatrello

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Frederick J. Calatrello  
Regional Director  
National Labor Relations Board  
Region 8

Attachments

**UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
N O T I C E**

Case Nos.        8-CA-37850, 8-CA-38244, 8-CA-38285,  
8-CA-38340, 8-CA-38380, 8-CA-38381,  
8-CA-38400, 8-CA-38412, 8-CA-38439

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; *and*
- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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Norton, OH 44203

Administrative Law Judges  
1099 14<sup>th</sup> Street, N.W.  
Washington, D.C. 20570

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 8

CASE FARMS PROCESSING, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS  
UNION, LOCAL NO. 880

CASE NOS. 8-CA-37850  
8-CA-38244  
8-CA-38285  
8-CA-38340  
8-CA-38380  
8-CA-38381  
8-CA-38400  
8-CA-38412  
8-CA-38439

**ORDER APPROVING WITHDRAWAL OR PARTIAL WITHDRAWAL IN  
CASE NOS. 8-CA-37850, 8-CA-38285, 8-CA-38340, 8-CA-38380, 8-CA-38381, 8-CA-38400  
AND 8-CA-38439, WITHDRAWAL OF SETTLED ALLEGATIONS FROM THIRD  
AMENDED CONSOLIDATED COMPLAINT AND ORDER SEVERING CASES**

Upon the above-captioned charges previously filed by the United Food and Commercial Workers Union, Local No. 880, herein called the Charging Union, against Case Farms Processing, Inc., herein called Respondent, an Order Consolidating Cases, Order Revoking Informal Settlement Agreement, Third Amended Consolidated Complaint and Notice of Hearing issued on November 30, 2009. Thereafter, the Charging Union and Respondent agreed to a Non-Board settlement of all of the claims raised in Case Nos. 8-CA-38340, 8-CA-38380, 8-CA-38381 and 8-CA-38400 as set out in this complaint.

The parties also reached a partial Non-Board settlement of certain claims arising in Case Nos. 8-CA-37850, 8-CA-38285 and 8-CA-38439 and the corresponding allegations set out in the

**EXHIBIT B**

same complaint. More specifically, in Case No. 8-CA-37850, a settlement was reached as to the Section 8(a)(1) and (3) allegation(s) concerning the discharge of Isidro Arreguin. In Case No. 8-CA-38285, a settlement was reached as to the Section 8(a)(1) and (3) allegations concerning the discipline of Leslie Castillo. Lastly, in Case No. 8-CA-38439, the parties reached a settlement of the Section 8(a)(1) and (3) allegations regarding the discipline of Adolfo Jimenez.

Pursuant to the settlement reached in the above matters, the Charging Union requested the full withdrawal of Case Nos. 8-CA-38340, 8-CA-38380, 8-CA-38381 and 8-CA-38400. The Charging Union also requested a partial withdrawal of Case Nos. 8-CA-37850, 8-CA-38285 and 8-CA-38439.

Having duly considered the matter and deeming it necessary in order to effectuate the purposes of the Act and to avoid unnecessary cost or delay, I hereby:

Approve the Charging Union's requests to fully or partially withdraw the charges noted above;

Withdraw those paragraphs of the Third Amended Consolidated Complaint pertaining to unfair labor practice allegations in the settled and withdrawn charges, including Paragraphs 30, 31, 32 and 34: and,

Order, pursuant to Section 102.33(a)(4) and (d) of the Board's Rules and Regulations, Series 8, as amended, that Case Nos. 8-CA-38340, 8-CA-38380, 8-CA-38381 and 8-CA-38400 be severed from Case Nos. 8-CA-37850, 8-CA-38244, 8-CA-38285, 8-CA-38412 and 8-CA-38439.

Dated at Cleveland, Ohio, this 11<sup>th</sup> day of June 2010.

/s/ Frederick J. Calatrello

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Frederick J. Calatrello  
Regional Director  
National Labor Relations Board  
Region 8

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 8

CASE FARMS PROCESSING, INC.

and

UNITED FOOD AND COMMERCIAL WORKERS  
UNION, LOCAL NO. 880

CASE NOS. 8-CA-37850  
8-CA-38244  
8-CA-38285  
8-CA-38412  
8-CA-38439

**FOURTH AMENDED CONSOLIDATED COMPLAINT AND NOTICE OF HEARING**

Based on a charge filed in Case No. 8-CA-37850 by the United Food and Commercial Workers Union, Local No. 880, herein called the Charging Union, a Complaint and Notice of Hearing issued on December 31, 2008 against Case Farms of Ohio, Inc., now known as Case Farms Processing, Inc., herein called Respondent, which charge was the subject of an informal settlement agreement approved on February 20, 2009. Based on subsequent charges filed in Case Nos. 8-CA-38244, 8-CA-38285, 8-CA-38340, 8-CA-38380 and 8-CA-38381 by the Charging Union, an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing issued on July 31, 2009 against Respondent. Thereafter, based on an additional charge filed in Case No. 8-CA-38400 by the Charging Union, an Order Consolidating Cases, Amended Consolidated Complaint and Notice of Hearing issued on August 18, 2009 against Respondent. Subsequently, based on two charges filed in 8-CA-38412 and 8-CA-38439 by the Charging Union, an Order Consolidating Cases, Second Amended Consolidated Complaint and Notice of

**EXHIBIT C**

Hearing issued on September 30, 2009 against Respondent. Thereafter, having concluded that the informal settlement agreement in Case No. 8-CA-37850 should be vacated and set aside, the undersigned issued an Order Consolidating Cases, Order Revoking Informal Settlement Agreement, Third Amended Consolidated Complaint and Notice of Hearing issued on November 30, 2009 against Respondent. Thereafter, the parties reached a resolution of certain matters set forth in the Third Amended Consolidated Complaint and an Order severing Case Nos. 8-CA-38340, 38380, 38381 and 38400 from the above cases issued on June 11, 2010.

NOW COMES, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Sections 102.15 and 102.33 of the Board's Rules and Regulations, herein called the Board, issues this Fourth Amended Consolidated Complaint and Notice of Hearing and alleges as follows:

1. (A) The charge in 8-CA-37850 was filed by the Charging Union on July 16, 2008, and a copy was served by mail on Respondent on July 17, 2008.

(B) The amended charge in 8-CA-37850 was filed by the Charging Union on September 19, 2008, and a copy was served by mail on Respondent on September 23, 2008.

2. (A) The charge in 8-CA-38244 was filed by the Charging Union on April 3, 2009, and a copy was served by mail on Respondent on April 7, 2009.

(B) The amended charge in 8-CA-38244 was filed by the Charging Union on June 18, 2009, and a copy was served by mail on Respondent on June 18, 2009.

3. (A) The charge in 8-CA-38285 was filed by the Charging Union on April 22, 2009, and a copy was served by mail on Respondent on April 22, 2009.

(B) The amended charge in 8-CA-38285 was filed by the Charging Union on June 24, 2009, and a copy was served by mail on Respondent on June 24, 2009.

4. (A) The charge in 8-CA-38412 was filed by the Charging Union on June 30, 2009, and a copy was served by mail on Respondent on July 1, 2009.

(B) The amended charge in 8-CA-38412 was filed by the Charging Union on July 21, 2009, and a copy was served by mail on Respondent on July 21, 2009.

(C) The second amended charge in 8-CA-38412 was filed by the Charging Union on September 29, 2009 and a copy was served by mail on Respondent on September 29, 2009.

5. (A) The charge in 8-CA-38439 was filed by the Charging Union on July 14, 2009, and a copy was served by mail on Respondent on July 15, 2009.

(B) The amended charge in 8-CA-38439 was filed by the Charging Union on September 22, 2009, and a copy was served by mail on Respondent on September 23, 2009.

6. (A) At all material times, Respondent, an Ohio corporation, with a place of business located at 1818 County Road 160, Winesburg, Ohio, herein called Respondent's facility, has been engaged in the business of processing chickens.

(B) Annually, in the course and conduct of its business, the Respondent sells and ships goods valued in excess of \$50,000 directly to points located outside the State of Ohio.

7. At all material times Respondent has been an employer engaged in commerce within the meaning of Section 2(2), 2(6) and 2(7) of the Act.

8. At all material times, the Charging Union has been a labor organization within the meaning of Section 2(5) of the Act.

9. At all material times the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and/or agents of Respondent within the meaning of Section 2(13) of the Act:

Paul Nelson – Plant Manager  
Guillermo Ibarra – Human Resource Manager

Armando Campos – Human Resource Manager  
Bill McAfee - Supervisor  
Paul Storsin – Supervisor  
Sharon Jellel – Second Processing Manager  
Pedro Valdez – Supervisor  
Angel Melendez Garcia – Supervisor  
Jonathan Martinez Castro – Supervisor  
Barbara Gomez – Supervisor

10. On or about June 28, 2008, the Respondent, by its supervisor and/or agent Armando Campos, unlawfully interrogated employees about their union activities outside of the Super 8 motel located near the Respondent's facility.

11. At a new employee training meeting on or about June 12, 2008, the Respondent, by its supervisor and/or agent Armando Campos:

(A) unlawfully threatened employees that no wage increases would be granted as long as the Charging Union was at the facility;

(B) made unlawful statements of futility by telling employees that the Charging Union could not help employees; and

(C) coercively informed employees that the Respondent had eliminated the union at its North Carolina plant by hiring Puerto Rican employees to remove the union and coercively informed employees that the Respondent brought the new employees to Respondent's facility to remove the Charging Union.

12. On or about the following dates; August 5, 2008, March 24, 2009 and April 14, 2009, the Respondent, by its supervisors and/or agents, including Sharon Jellel and Armando Campos, unlawfully created the impression that employees' protected activities were under surveillance.

13. On or about March 19, 2009, the Respondent, by its supervisors and/or agents, at Respondent's facility:

(A) unlawfully coerced employees by telling them that there would be no jobs for them if they did not sign a decertification petition; and

(B) unlawfully threatened an employee that he would not have a job if he did not sign a decertification petition.

14. On or about March 24, 2009, the Respondent, by its supervisor and/or agent Pedro Valdez, unlawfully interrogated an employee about the employee's union and/or protected concerted activities.

15. On or about April 14, 2009, the Respondent, by its supervisor and/or agent Armando Campos, at Respondent's facility:

(A) unlawfully threatened an employee with discipline in retaliation for the employee's union and/or protected concerted activity; and

(B) coercively informed an employee that she was talking to other employees too much, in order to discourage the employee's union and/or protected concerted activity.

16. On or about April 20, 2009, the Respondent, by its supervisors and/or agents, including Paul Nelson, Pedro Valdez, Sharon Jellel and Armando Campos, at Respondent's facility, held a coercive meeting with an employee in retaliation for the employee's union and/or protected concerted activity.

17. On or about April 20, 2009, the Respondent, by its supervisor and/or agent Armando Campos, at Respondent's facility, unlawfully threatened to discipline an employee because of his union and/or protected concerted activities.

18. On or about May 27, 2009, the Respondent, by its supervisor and/or agent Armando Campos, at Respondent's facility:

(A) threatened an employee with termination in retaliation for his union and/or protected concerted activities; and

(B) coercively informed an employee that the Respondent had problems with the Respondent's employees because the Charging Union wanted to represent the employees at the Respondent's facility.

19. In or around May 2009, the exact date being unknown, the Respondent, by its supervisor and/or agent Paul Storsin, at Respondent's facility, unlawfully interrogated an employee about his protected activities and the protected activities of other employees.

20. During June and July, 2009, the Respondent, by its supervisors and/or agents, including Armando Campos, at Respondent's facility:

(A) coercively held a meeting to urge an employee to sign a decertification petition and placed his name on a decertification petition over his objections;

(B) unlawfully promised an employee that the employees would get a raise if they signed a decertification petition or got rid of the Charging Union;

(C) coercively informed an employee that since he removed his name from a decertification petition, the Respondent would no longer assist the employee if he had problems with his coworkers; and,

(D) unlawfully threatened an employee with termination because the employee had removed his name from a decertification petition.

21. By the conduct described above in paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 and their subparagraphs, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

22. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

23. (A) In disposition of Case No. 8-CA-37850, Respondent and Charging Union entered into an informal settlement agreement that addressed the allegations set forth in paragraphs 10, 11 and 12 (to the extent it alleges conduct by Sharon Jellel) which settlement was approved on February 20, 2009.

(B) By the conduct described above in paragraphs 12 through 20, Respondent violated the terms of the settlement agreement described above in paragraph 23(A), accordingly, the undersigned,

ORDERS, pursuant to Section 101.9(e)(2) of the Board's Rules and Regulations and Statements of Procedure, that the settlement agreement described above in paragraph 23(A) is vacated and set aside.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the fourth amended consolidated complaint. The answer must be **received by this office on or before June 30, 2010, or postmarked on or before June 29, 2010.** Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on the **E-Gov tab**, select **E-Filing**, and then follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing

system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer 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. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the document need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to Motion for Default Judgment, that the allegations in the fourth amended consolidated complaint are true.

#### **NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on a date, time and place to be designated later, if necessary, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this fourth amended consolidated complaint. The procedures to be

followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Cleveland, Ohio this 16<sup>th</sup> day of June 2010.

/s/ Frederick J. Calatrello

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Frederick J. Calatrello  
Regional Director  
National Labor Relations Board  
Region 8

Attachments

**UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE**

Case Nos. 8-CA-37850, 8-CA-38244, 8-CA-38285,  
8-CA-38412, 8-CA-38439

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; *and*
- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Charles McDaniels  
Case Farms of Ohio, Inc.  
1818 County Rd. 160  
Winesburg, OH 44690

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June 24, 2010

**VIA EMAIL ONLY** - [Steven.Wilson@nlrb.gov](mailto:Steven.Wilson@nlrb.gov)

Steve Wilson, Esq.  
National Labor Relations Board  
Region 8  
1695 Anthony J. Celebrezze Federal Bldg.  
1240 East Ninth Street  
Cleveland, OH 44199

**Re: Case Farms Processing, Inc.  
Case Nos. 8-CA-37850, 8-CA-38244; 8-CA-38285; 8-CA-38412 and  
8-CA-38439**

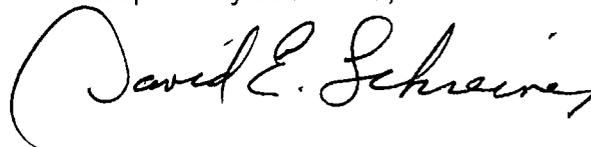
Dear Mr. Wilson:

Case Farms Processing, Inc. ("Case Farms") has been served with a Fourth Amended Consolidated Complaint and Notice of Hearing ("the Fourth Amended Complaint") in the captioned cases. While Case Farms believes that many of the allegations in the Fourth Amended Complaint are unfounded and, therefore, is not by this letter admitting any such allegations, based on our previous discussions, Case Farms has decided not to file an Answer to the Fourth Amended Complaint. Further, Case Farms is hereby withdrawing its Answers to previous Complaints issued with respect to the captioned cases.

Based on our discussions, Case Farms understands that due to its decision not to file an Answer to the Fourth Amended Complaint, the General Counsel intends to file a Motion for Default Judgment in the captioned cases. Please be advised that Case Farms does not intend to contest such a Motion.

I appreciate your attention to this and feel free to contact me if you have any questions.

Respectfully submitted,



David E. Schreiner  
MILLISOR + NOBIL CO., L.P.A.  
Attorneys for Case Farms Processing, Inc.

DES/mls



# NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
AN AGENCY OF THE UNITED STATES GOVERNMENT

**FEDERAL LAW GIVES YOU THE RIGHT TO**

- **Form, join or assist a union**
- **Choose representatives to bargain on your behalf**
- **Act together with other employees for your benefit and protection**
- **Choose not to engage in any of these protected activities**

**WE WILL NOT** coercively interrogate employees about their Union activities.

**WE WILL NOT** threaten employees that no wage increases will be granted as long as our employees are engaged in protected concerted activities with the United Food and Commercial Workers Union, Local 880 ("Union") nor threaten employees, with unlawful statements of futility about the Union.

**WE WILL NOT** unlawfully create the impression that we are surveiling our employees' Union activities.

**WE WILL NOT** coercively inform employees that we can eliminate a union as the collective-bargaining representative of our employees by hiring a group of new employees

**WE WILL NOT** coerce employees by telling them there will be no jobs for them if they did not sign a decertification petition nor threaten employees that they will not have jobs if they did not sign a decertification petition.

**WE WILL NOT** hold coercive meetings with employees in order to coerce them into signing a decertification petition, nor write employees' names on a decertification petition over our employees' objections nor coercively urge employees to sign a decertification petition.

**WE WILL NOT** promise employees a raise conditioned on their removal of the Union and/or signing the decertification petition.

**WE WILL NOT** coercively inform employees who have removed their names from a decertification petition that the Employer will no longer assist them if they have problems with their co-workers nor threaten employees who have removed their names from a decertification petition with termination.

**WE WILL NOT** threaten employees with discipline or termination because of their Union and/or protected concerted activities, nor hold coercive meetings with our employees in retaliation for their Union and/or protected concerted activities

**WE WILL NOT**, in order to discourage employees' Union and/or protected concerted activities, coercively inform our employees that they were talking to other employees too much.

**WE WILL NOT** coercively inform employees that the Employer is having problems with employees because the Union wanted to represent employees at the Employer's facility.

**WE WILL NOT** in any like or related manner, interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed to them by Section 7 of the Act.

**Case Farms of Ohio, Inc.**  
**(Employer)**

**Dated:** \_\_\_\_\_ **By** \_\_\_\_\_  
(Representative)(Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: [www.nlr.gov](http://www.nlr.gov).

NLRB, Region 8	Telephone: (216) 522-3715
1240 East 9 <sup>th</sup> Street	Hours of Operation:
AJC Federal Building, Room 1695	8:15 a.m. to 4:45 p.m.

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.**

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER,