

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**SOUTHWEST REGIONAL COUNCIL OF  
CARPENTERS, UNITED BROTHERHOOD OF  
CARPENTERS AND JOINERS OF AMERICA;  
CARPENTERS LOCAL UNION NO. 803, UNITED  
BROTHERHOOD OF CARPENTERS  
AND JOINERS OF AMERICA**

and

**IMAC CONSTRUCTION, INC.**

**Cases 21-CB-14939  
21-CB-14963  
21-CC-3425**

**DECISION AND ORDER**

**Statement of the Cases**

On March 3, 2011, Southwest Regional Council of Carpenters, United Brotherhood of Carpenters and Joiners of America (Respondent Council), Carpenters Local Union No. 803, United Brotherhood of Carpenters and Joiners of America (Respondent Local 803) (collectively, the Respondents), and the Acting General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by the United States Court of Appeals for the Ninth Circuit.<sup>1</sup> The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act, as amended, and the Board's Rules and Regulations, and the Respondents waived their rights to contest the entry of a consent judgment or to receive further notice of the application therefor. However, the Respondents shall be required to comply with the affirmative provisions of the Board's Order after entry of the judgment only to the extent that they have not already done so.

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<sup>1</sup> The Charging Party declined to enter into the Formal Settlement Stipulation, and has filed objections to the Stipulation with the Regional Director. The Regional Director and the Acting General Counsel recommend approval of the settlement on the grounds that it remedies all of the allegations in the consolidated complaint, that it will prevent the Respondents from engaging in unlawful conduct directed at the Charging Party and its employees, the other affected entities and their employees, and any other employer and its employees, and thus that the settlement is appropriate and effectuates the purposes of the Act. We have carefully considered the Charging Party's objections to the settlement, and we find that it would effectuate the purposes and policies of the Act to approve the settlement agreement. In so finding, however, we note that, by its nature, a settlement agreement binds only the parties to the agreement, and does not affect the rights of non-parties.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following:

### **Findings of Fact**

#### **1. The Employers' businesses**

At all material times, IMAC Construction, Inc. (IMAC), a California corporation with its principal office located at 19740 Jolora Avenue, Corona, California, has been engaged in the business of commercial and industrial structural concrete contracting in the construction industry in California and throughout the United States.

During the 12-month period ending June 24, 2010, a representative period, IMAC, in conducting its business operations described above, derived gross revenues in excess of \$500,000 and purchased and received at its California locations goods valued in excess of \$50,000 directly from points outside the State of California.

IMAC is now, and at all material times has been, an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and a person within the meaning of Section 8(b)(4)(ii)(B) of the Act.

At all material times, Bernards Brothers, Inc. d/b/a Bernards (Bernards), a California corporation, has been engaged in business as a general contractor in the construction industry.

At all material times, Bernards has been a person engaged in commerce or in an industry affecting commerce within the meaning of Section 8(b)(4)(ii)(B) of the Act.

At all material times, Temple Judea has operated as a Jewish temple and nursery school in Tarzana, California.

At all material times, Temple Judea has been a person engaged in commerce or in an industry affecting commerce within the meaning of Section 8(b)(4)(ii)(B) of the Act.

At all material times, Temple Judea has engaged Bernards as a general contractor to perform work at Temple Judea, located at 5429 Lindley Avenue, Tarzana, California (the jobsite).

At all material times, Bernards has engaged IMAC to perform work as a subcontractor at the jobsite.

At all material times, Respondent Council and Respondent Local 803 have been engaged in a labor dispute with IMAC.

At no material time has Respondent Council or Respondent Local 803 been engaged in a labor dispute with Temple Judea, Bernards, or with any other contractors at the jobsite other than IMAC.

2. The labor organizations involved

At all material times, Respondent Council and Respondent Local 803, and each of them individually, have been labor organizations within the meaning of Section 2(5) of the Act.

**ORDER**

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board orders that

A. Southwest Regional Council of Carpenters, United Brotherhood of Carpenters and Joiners of America (Respondent Council), its officers, agents, and representatives, shall

1. Cease and desist from

(a) Restraining or coercing employees in the exercise of the rights guaranteed them under Section 7 of the National Labor Relations Act (the Act), by engaging in any of the following conduct:

(i) impeding the entrance to and exit from jobsites by employees, subcontractors, subcontractors, and visitors;

(ii) in the presence of employees, spitting on a supervisor for Bernards Brothers, Inc. d/b/a Bernards (Bernards) as he attempts to unlock an entrance gate to a jobsite;

(iii) in the presence of employees, attempting to inflict injury on a supervisor for Bernards by bumping him as he attempts to unlock an entrance gate to a jobsite;

(iv) relocking an entrance gate to a jobsite after it has been opened by a supervisor for Bernards;

(v) striking vehicles and causing property damage to vehicles entering jobsites;

(vi) in the presence of employees, threatening a Temple Judea supervisor with harm if Temple Judea did not resolve the dispute Respondent Council had with IMAC Construction, Inc. (IMAC);

(vii) impeding the entrance to and exit from jobsites by employees, subcontractors, and visitors by kicking a gate at the jobsite;

(viii) threatening employees with violence by telling them that Respondent Council knows where they live;

(ix) in the presence of employees, threatening a supervisor of Bernards with violence by telling him that Respondent Council knows where he lives.

(b) In any other manner restraining or coercing employees of IMAC, Bernards, Temple Judea, or of any other employer, in the exercise of the rights guaranteed them by Section 7 of the Act.

(c) Threatening, coercing, or restraining Bernards, Temple Judea, or any other person engaged in commerce or in an industry affecting commerce, where an object thereof is to force or require Bernards, Temple Judea, or any other person, to cease dealing in the products of or to cease doing business with IMAC or any other person, by engaging in any of the following conduct:

(i) threatening to picket and make things difficult for Temple Judea, unless it ceases doing business with IMAC;

(ii) spitting on a supervisor for Bernards as he attempts to unlock an entrance gate to the jobsite;

(iii) attempting to inflict injury on a supervisor for Bernards by bumping him as he attempts to unlock an entrance gate to the jobsite;

(iv) threatening to picket Temple Judea at locations where IMAC does not have a presence;

(v) threatening a Temple Judea supervisor with harm if Temple Judea does not resolve the dispute Respondent Council has with IMAC; and

(vi) threatening a supervisor of Bernards with violence by telling him that Respondent Council knows where he lives.

(d) In any other manner, or by any other means, threatening, coercing, or restraining Bernards, Temple Judea, or any other person engaged in commerce or in an industry affecting commerce, where an object thereof is to force or require Bernards, Temple Judea, or any other person, to cease dealing in the products of or to cease doing business with IMAC or any other person.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Within 14 days after service by the Region of the attached notice marked "Appendix A," post the notice at the offices of Respondent Council. Copies of the notice, in English and Spanish, on forms provided by the Regional Director for Region 21, after being signed by an authorized representative of Respondent Council, shall be posted by Respondent Council and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees and members are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means if Respondent Council customarily communicates with employees and members by such means. Reasonable steps will be taken by Respondent Council to ensure that the notices are not altered, defaced, or covered by any other material.

(b) Sign and return to the Regional Director sufficient copies of the attached notice marked "Appendix A" for posting by IMAC, Bernards, and Temple Judea, if willing, at all places at their facilities where notices to employees and members are customarily posted.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 21 a sworn certification of a responsible official on a form provided by the Region, attesting to the steps that Respondent Council has taken to comply.

B. Carpenters Local Union No. 803, United Brotherhood of Carpenters and Joiners of America (Respondent Local 803), its officers, agents, and representatives, shall

1. Cease and desist from

(a) Restraining or coercing employees in the exercise of the rights guaranteed them under Section 7 of the National Labor Relations Act (the Act) by engaging in any of the following conduct:

(i) impeding the entrance to and exist from jobsites by employees, subcontractors, and visitors;

(ii) in the presence of employees, spitting on a supervisor for Bernards Brothers, Inc. d/b/a Bernards (Bernards) as he attempts to unlock an entrance gate to a jobsite;

(iii) in the presence of employees, attempting to inflict injury on a supervisor for Bernards by bumping him as he attempts to unlock an entrance gate to a jobsite;

(iv) relocking an entrance gate to a jobsite after it has been opened by a supervisor for Bernards;

(v) striking vehicles and causing property damage to vehicles entering jobsites;

(vi) in the presence of employees, threatening a Temple Judea supervisor with harm if Temple Judea did not resolve the dispute Respondent Local 803 had with IMAC Construction, Inc. (IMAC);

(vii) impeding the entrance to and exit from jobsites by employees, subcontractors, and visitors by kicking a gate at the jobsite;

(viii) threatening employees with violence by telling them that Respondent Local 803 knows where they live;

(ix) in the presence of employees, threatening a supervisor of Bernards with violence by telling him that Respondent Local 803 knows where he lives.

(b) In any other manner restraining or coercing employees of IMAC, Bernards, Temple Judea, or of any other employer, in the exercise of the rights guaranteed them by Section 7 of the Act.

(c) Threatening, coercing, or restraining Bernards, Temple Judea, or any other person engaged in commerce or in an industry affecting commerce, where an object thereof is to force or require Bernards, Temple Judea, or any other person, to cease dealing in the products of or to cease doing business with IMAC or any other person, by engaging in any of the following conduct:

(i) threatening to picket and make things difficult for Temple Judea, unless it ceases doing business with IMAC;

(ii) spitting on a supervisor for Bernards as he attempts to unlock an entrance gate to the jobsite;

(iii) attempting to inflict injury on a supervisor for Bernards by bumping him as he attempts to unlock an entrance gate to the jobsite;

(iv) threatening to picket Temple Judea at locations where IMAC does not have a presence;

(v) threatening a Temple Judea supervisor with harm if Temple Judea does not resolve the dispute Respondent Local 803 has with IMAC; and

(vi) threatening a supervisor of Bernards with violence by telling him that Respondent Local 803 knows where he lives.

(d) In any other manner, or by any other means, threatening, coercing, or restraining Bernards, Temple Judea, or any other person engaged in commerce or in an

industry affecting commerce, where an object thereof is to force or require Bernards, Temple Judea, or any other person, to cease dealing in the products of or to cease doing business with IMAC or any other person.

B. Respondent Local 803, its officers, agents, and representatives, shall take the following affirmative action necessary to effectuate the policies of the Act:

(a) Within 14 days after service by the Region of the attached notice marked "Appendix B," post the notice at the offices of Respondent Local 803. Copies of the notice, in English and Spanish, on forms provided by the Regional Director for Region 21, after being signed by an authorized representative of Respondent Local 803 shall be posted by Respondent Local 803 and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees and members are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means if Respondent Local 803 customarily communicates with employees and members by such means. Reasonable steps will be taken by Respondent Local 803 to ensure that the notices are not altered, defaced or covered by any other material.

(b) Sign and return to the Regional Director for Region 21 sufficient copies of the attached notice marked "Appendix B" for posting by IMAC, Bernards, and Temple Judea, if willing, at all places at their facilities where notices to employees and members are customarily posted.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 21 a sworn certification of a responsible official on a form provided by the Region, attesting to the steps that Respondent Local 803 has taken to comply.

Dated, Washington, D.C., June 1, 2011.

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Wilma B. Liebman, Chairman

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Craig Becker, Member

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Mark Gaston Pearce, Member

(SEAL)

**NATIONAL LABOR RELATIONS BOARD**

## APPENDIX A

### NOTICE TO EMPLOYEES AND MEMBERS

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

Pursuant to a stipulation providing for a Board order and a consent judgment of the United States Court of Appeals for the Ninth Circuit.

#### FEDERAL LAW GIVES YOU THE RIGHT TO:

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

**WE WILL NOT** restrain or coerce employees in the exercise of the rights guaranteed them under Section 7 of the National Labor Relations Act (the Act) by engaging in any of the following conduct:

- impeding the entrance of and exit from jobsites by employees, subcontractors, and visitors;
- in the presence of employees, spitting on a supervisor for Bernards Brothers, Inc. d/b/a Bernards (Bernards), as he attempts to unlock an entrance gate to the jobsite;
- in the presence of employees, attempting to inflict injury on a supervisor for Bernards by bumping him as he attempts to unlock an entrance gate to a jobsite;
- relocking an entrance gate to a jobsite after it has been opened by a supervisor for Bernards;
- striking vehicles and causing property damage to vehicles entering jobsites;
- in the presence of employees, threatening a Temple Judea supervisor with harm if Temple Judea did not resolve the dispute the Southwest Regional Council of Carpenters, United Brotherhood of Carpenters and Joiners of America (Carpenters Council), had with IMAC Construction, Inc. (IMAC);
- impeding the entrance to and exit from jobsites by employees, subcontractors, and visitors by kicking a gate at the jobsite;
- threatening employees with violence by telling them that the Carpenters Council knows where they live;
- in the presence of employees, threatening a supervisor of Bernards with violence by telling him that the Carpenters Council knows where he lives.

**WE WILL NOT** in any other manner restrain or coerce employees of IMAC, Bernards, Temple Judea, or of any other employer in the exercise of the rights guaranteed them by Section 7 of the Act;

**WE WILL NOT** threaten, coerce, or restrain Bernards, Temple Judea, or any other person engaged in commerce or in an industry affecting commerce, where an object thereof is to force or require Bernards, Temple Judea, or any other person, to cease dealing in the products of or to cease doing business with IMAC or any other person, by engaging in any of the following conduct:

- threatening to picket or make things difficult for Temple Judea, unless it ceases doing business with IMAC;
- spitting on a supervisor for Bernards as he attempts to unlock an entrance gate to the jobsite;
- attempting to inflict injury on a supervisor for Bernards by bumping him as he attempts to unlock an entrance gate to the jobsite;
- threatening to picket Temple Judea at locations where IMAC does not have a presence;
- threatening a Temple Judea supervisor with harm if Temple Judea does not resolve the dispute the Carpenters Council has with IMAC; and
- threatening a supervisor of Bernards with violence by telling him that the Carpenters Council knows where he lives.

**WE WILL NOT** in any other manner, or by any other means, threaten, coerce, or restrain Bernards, Temple Judea, or any other person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is to force or require Bernards, Temple Judea, or any other person, to cease dealing in the products of or to cease doing business with IMAC or any other person.

**SOUTHWEST REGIONAL COUNCIL OF  
CARPENTERS, UNITED BROTHERHOOD  
OF CARPENTERS AND JOINERS OF AMERICA**

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

## **APPENDIX B**

### **NOTICE TO EMPLOYEES AND MEMBERS**

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An Agency of the United States Government**

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- in the presence of employees, spitting on a supervisor for Bernards Brothers, Inc. d/b/a Bernards (Bernards), as he attempts to unlock an entrance gate to a jobsite;
- in the presence of employees, attempting to inflict injury on a supervisor for Bernards by bumping him as he attempts to unlock an entrance gate to a jobsite;
- relocking an entrance gate to a jobsite after it has been opened by a supervisor for Bernards;
- striking vehicles and causing property damage to vehicles entering jobsites;
- in the presence of employees, threatening a Temple Judea supervisor with harm if Temple Judea did not resolve the dispute Carpenters Local Union No. 803, United Brotherhood of Carpenters and Joiners of America (Carpenters Local 803) had with IMAC Construction, Inc., herein called IMAC;
- impeding the entrance to and exit from jobsites by employees, subcontractors, and visitors by kicking a gate at the jobsite;
- threatening employees with violence by telling them that Carpenters Local 803 knows where they live;
- in the presence of employees, threatening a supervisor of Bernards with violence by telling him that Carpenters Local 803 knows where he lives.

**WE WILL NOT** in any other manner restrain or coerce employees of IMAC, Bernards, Temple Judea, or of any other employer in the exercise of the rights guaranteed them by Section 7 of the Act.

**WE WILL NOT** threaten, coerce, or restrain Bernards, Temple Judea, or any other person engaged in commerce or in an industry affecting commerce, where an object thereof is to force or require Bernards, Temple Judea, or any other person, to cease dealing in the products of or to cease doing business with IMAC or any other person, by engaging in any of the following conduct:

- threatening to picket or make things difficult for Temple Judea, unless it ceases doing business with IMAC;
- spitting on a supervisor for Bernards as he attempts to unlock an entrance gate to the jobsite;
- attempting to inflict injury on a supervisor for Bernards by bumping him as he attempts to unlock an entrance gate to the jobsite;
- threatening to picket Temple Judea at locations where IMAC does not have a presence;
- threatening a Temple Judea supervisor with harm if Temple Judea does not resolve the dispute Carpenters Local 803 has with IMAC; and
- threatening a supervisor of Bernards with violence by telling him that Carpenters Local 803 knows where he lives.

**WE WILL NOT** in any other manner, or by any other means, threaten, coerce, or restrain Bernards, Temple Judea, or any other person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is to force or require Bernards, Temple Judea, or any other person, to cease dealing in the products of or to cease doing business with IMAC or any other person.

**CARPENTERS LOCAL UNION NO. 803,  
UNITED BROTHERHOOD OF CARPENTERS  
AND JOINERS OF AMERICA**

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