

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DENNIS P. WALSH, *
Regional Director of the Fourth Region of the *
NATIONAL LABOR RELATIONS BOARD, *
for and on behalf of the *
NATIONAL LABOR RELATIONS BOARD, *

Petitioner, *

v. * Civil No. 5:15-cv-02507 JFL

CHM CONTRACTING, LLC *

Respondent. *

PROPOSED ORDER GRANTING TEMPORARY INJUNCTION

This cause came to be heard upon the verified Petition of Dennis P. Walsh, Regional Director of the Fourth Region of the National Labor Relations Board, for and on behalf of the Board, for a temporary injunction pursuant to Section 10(j) of the National Labor Relations Act, as amended, pending the final disposition of the matters involved, herein pending before the Board, and upon the issuance of an Order to Show Cause why injunctive relief should not be granted as prayed in the Petition. The Court, upon consideration of the pleadings, evidence, memoranda, argument of counsel, and the entire record in the case, has made and filed its Findings of Fact and Conclusions of Law, finding and concluding that there is reasonable cause to believe that Respondent has engaged in, and is engaging in, acts and conduct in violation of Section 8(a)(1) and (3) of the Act, affecting commerce within the meaning of Section 2(6) and

(7) of the Act, and that such acts and conduct will likely be repeated or continued unless enjoined.

Now, therefore, upon the entire record, it is:

ORDERED, ADJUDGED AND DECREED that, pending the final disposition of the matters involved herein pending before the National Labor Relations Board, Respondent CHM Contracting, LLC, its officers, representatives, agents, servants, employees, attorneys, successors and assigns, and all persons acting in concert or participation with it or with them, be and they hereby are enjoined and restrained from:

(a) discriminatorily selecting employees for layoff, telling employees that it is laying them off, or otherwise discriminating against them because of their support for the Union or any other labor organization;

(b) considering employees' Union support or using it against them in any way in the event future layoffs become necessary;

(c) asking employees about their support for or against any union;

(d) threatening to close its business or telling employees that it will never be unionized in order to discourage employees from supporting the Union or any other labor organization;

(e) pressuring employees into withdrawing their Union membership;

(f) making it appear to employees that it is watching out for employees' Union activities or other protected concerted activities;

(g) asking employees about their complaints and promise to fix them in order to discourage employees from supporting the Union;

(h) making it seem that benefits employees receive, including bonuses, are in exchange for an agreement to not support the Union;

(i) in any like or related manner, interfering with employees' rights under Section 7 of the National Labor Relations Act; and

(j) in any like or related manner, discriminating in regard to the hire or tenure or conditions of employment of its employees, thereby discouraging membership in a labor organization.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pending the final disposition of the matters involved pending before the National Labor Relations Board, Respondent CHM Contracting, LLC, its officers, representatives, agents, servants, employees, attorneys, successors and assigns, and all persons acting in concert or participation with it or with them, shall take the following affirmative action:

(a) within five (5) days of the issuance of the District Court's Order, on an interim basis, offer reinstatement, in writing, to Respondent's employees Anthony Flecksteiner, Carl Furillo, and Mark Thompson to their former positions without prejudice to their former seniority or other rights and privileges previously enjoyed, or if those positions no longer exist, to substantially equivalent positions, displacing any other person hired or reassigned by Respondent as their replacements.

(b) post a copy of the District Court's Order at Respondent's offices at 133 Main Street, Leesport, Pennsylvania, and in all locations where Respondent's notices to employees customarily are posted; maintain these postings during the Board's administrative

proceeding free from all obstructions and defacements; and grant to agents of the Board reasonable access to its facility to monitor compliance with this posting requirement;

(c) within fourteen (14) days, have a responsible Respondent official, in the presence of a Board agent, read the District Court's Order at a mandatory meeting or meetings of all of its employees on working time; or, alternatively, have a Board agent read the Order to employees in the presence of a responsible Respondent official;

(d) within twenty (20) days of the issuance of the District Court's Order, serve upon the Court and upon Petitioner a sworn affidavit from a responsible Respondent official that states with specificity the manner in which Respondent has complied with the terms of the Court's Order;

(e) this Order shall expire six months from the date of its issuance; provided however, that Petitioner may, upon motion, request a thirty day extension of this Order if it appears that the decision of the National Labor Relations Board's administrative law judge on the underlying unfair labor practice Consolidated Complaint in Cases 4-CA-143455, 4-CA-143589, 4-CA-143693 and 4-CA-143696 is imminent. Provided further, that after the issuance of the decision of the administrative law judge, upon motion of Petitioner, this Order may be extended, pending the National Labor Relations Board's final decision, for an additional period not to exceed six months; provided further, that Petitioner may, upon motion, request an additional thirty day extension of this Order if it appears that the final decision of the National Labor Relations Board on the underlying unfair labor practice Consolidated Complaint is imminent;

That upon return of the Order to Show Cause, the Court issue an order enjoining and restraining Respondent in the manner set forth above;

That the Court grant such further and other relief as may be just and proper.

Done at Philadelphia, Pennsylvania this 15th day of May, 2015.

JOSEPH F. LEESON, JR.
UNITED STATES DISTRICT JUDGE