

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

**GREEN APPLE SUPERMARKET OF JAMAICA,
INC.**

And

**Case 29-CA-183238
29-CA-188130**

**LOCAL 342, UNITED FOOD & COMMERCIAL
WORKERS**

**COUNSEL FOR THE GENERAL COUNSEL’S POST DECISION MOTION
TO MODIFY THE CONCLUSIONS OF LAW, ORDER AND REMEDY TO CONFORM
TO THE ADMINISTRATIVE LAW JUDGE’S 10/19/2017 DECISION**

On October 19, 2017, Administrative Law Judge Kenneth Chu (Judge Chu) issued a decision (Decision), recommended Order (Order) and Notice to Employees (Notice) in the above referenced matters. Counsel for the General Counsel requests that Judge Chu issue an Order to modify the Decision as described below:

1. Throughout the Decision, the address of Respondent’s office and place of business is listed as 92-14 Guy R. Brewer Boulevard, Jamaica, New York. At all places where it appears in the Decision, Respondent’s office and place of business should be listed as “92-45 Guy R. Brewer Boulevard, Jamaica, New York”, consistent with the allegations in the amended complaint and Respondent’s Answer.¹
2. Paragraph 2 of the Conclusions of Law portion of the Decision reads in part: “Jason F. Wang and Erick Peralta Perez are supervisors within the meaning of Section 2(11) of the Act” “David last name unknown” should be included in paragraph 2 of the Conclusions of Law because you found that David was a supervisor under the Act.²
3. Paragraph 7 of the Conclusions of Law portion of the Decision reads: “The Respondent threatened unit employees with termination and plant closure for their support of the Union and enforced stricter work rules on the unit employees in violation of Section 8(3) and (1) of the Act.

¹ See GC Exh. 1 (v) and 1(cc).

² See pg. 20 of the Decision.

As you determined that Respondent violated Section 8(a)(3) and 8(a)(1) of the Act when it threatened unit employees with termination, plant closure, and stricter enforcement of work rules for their support of the Union, and enforced stricter work rules on the unit employees,³ it should read instead as follows:

“The Respondent threatened unit employees with *termination, plant closure and stricter enforcement of work rules* for their support for the Union and enforced more strict work rules on the unit employees in violation of Section 8(3) and (1) of the Act.”

4. The Remedy portion of the Decision reads in part: “It is recommended that Respondent expunge all references to the disciplines dated August 8, 9, and 10, 2016 issued to Anthony Smith” It further states that: “It is recommended that Respondent expunge all references to the disciplines dated July 4, 18 and 20, 2016 issued to Joel Tineo”

As you determined that Respondent violated Section 8(a)(3) and 8(a)(1) of the Act when it disciplined and discharged employees Anthony Smith and Joel Tineo,⁴ it should read instead as follows:

“It is recommended that Respondent expunge all references to the disciplines dated August 8, 9, and 10, 2016, including said “Employee Warning Notices” and the discharge, including said notice of discharge dated August 15, 2016, issued to Anthony Smith from his files, and notify him in writing that it has done so and that the disciplines and discharge will not be used against him in any way.”

“It is recommended that Respondent expunge all references to the disciplines dated July 4, 18 and 20, 2016, including said “Employee Warning Notices” and the discharge, including said notice of discharge dated July 20, 2016, issued to Joel Tineo from his files, and notify him in writing that it has done so and that the disciplines and discharge will not be used against him in any way.”

5. Paragraph 1(a) of the Order states that Respondent should cease and desist from “Discharging, disciplining, threatening or otherwise discriminating against employees”

As you determined that Respondent enforced stricter work rules on the Unit employees in violation of Section 8(a)(3) and (1) of the Act,⁵ it should read instead as follows:

“Discharging, disciplining, threatening, *more strictly enforcing work rules* or otherwise discriminating against employees”

³ See pgs. 28 and 31 of the Decision.

⁴ See pg. 27 of the Decision.

⁵ See pg. 28 of the Decision.

6. The first “WE WILL NOT” paragraph in the Notice reads, in part: “WE WILL NOT threaten to discipline or discharge or otherwise discriminate against you”

As you determined that Respondent unlawfully disciplined and discharged Anthony Smith and Joel Tineo,⁶ it should read instead as follows:

“WE WILL NOT discharge, discipline, or threaten to discipline or discharge you, or otherwise discriminate against you”

Accordingly, Counsel for the General Counsel respectfully requests that the above modifications be made to conform to Judge Chu’s findings of fact and law.

Dated: October 31, 2017

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⁶ See pg. 27 of the Decision.