

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

**TEAMSTERS LOCAL 456, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS**

**and**

**TITAN CONCRETE, INC.**

**Cases 02-CP-189159  
02-CP-190239  
02-CC-190242**

**DECISION AND ORDER**

Statement of the Cases

On May 9, 2017, Teamsters Local 456, International Brotherhood of Teamsters (the Respondent) and the 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 any appropriate United States Court of Appeals.<sup>1</sup> The Respondent waived all further and other proceedings before the Board to which it may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

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

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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 Board. The Regional Director and the General Counsel recommend approval of the settlement on the grounds that, inter alia, it fully remedies all of the allegations of the consolidated complaint and provides for the entry of Board and court orders. We have carefully considered the Charging Party's objections to the settlement, and we conclude that it would effectuate the purposes and policies of the Act to approve the settlement agreement.

## **Findings of Fact**

### 1. The Employer's business

(a) At all material times, Titan Concrete, Inc. (Titan), a New York corporation with an office and place of business located at 145 Huguenot Street, New Rochelle, New York, has been engaged in the manufacture, non-retail sale, and distribution of ready mixed concrete to commercial entities.

(b) Annually, Titan, in conducting its business operations described above, purchased and received at its New York facility goods valued in excess of \$50,000 directly from points outside the State of New York.

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

### 2. The labor organization involved

Teamsters Local 456, International Brotherhood of Teamsters, is a labor organization within the meaning of Section 2(5) of the Act.

### 3. The bargaining unit

The following employees of Titan (the unit) constitute a unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time drivers, mechanics and helpers.

## **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, the National Labor Relations Board orders that:

The Respondent, Teamsters Local 456, International Brotherhood of Teamsters, Elmsford, New York, its officers, agents, and representatives, shall

#### 1. Cease and desist from

(a) Inducing or encouraging any individual employed by ASF Construction and Excavation Corporation (ASF) and Specialty Construction System (SCS) or any other person engaged in commerce or in an industry affecting commerce, to engage in a strike or a refusal in the course of his or her employment to perform services where an object thereof is to force ASF and SCS, or any other person, to cease doing business with Titan Concrete, Inc. (Titan).

(b) Picketing, threatening to picket, or in any other manner seeking to restrain or coerce SCS, ASF, Mill Creek Residential Corporation (Mill Creek), GFX Site Development (GFX), SYP Industries (SYP), or any other person engaged in commerce or in an industry affecting commerce, where an object thereof is to force SCS, ASF, Mill Creek, GFX, SYP, or any other person, to cease doing business with Titan.

(c) Picketing, threatening to picket, or in any other manner seeking to restrain or coerce Titan where an object thereof is forcing or requiring Titan to recognize or bargain with it as the collective-bargaining representative of its employees or for the purpose of forcing or requiring employees of Titan to accept or select it as their collective-bargaining representative, where Titan has lawfully recognized United Service Workers Union, IUJAT, Local 339, or any other labor organization other than it, and a question concerning representation of said employees may not appropriately be raised under Section 9(c) of the Act.

(d) Picketing, threatening to picket, or in any other manner seeking to restrain or coerce Titan where an object of such picketing is forcing or requiring Titan to recognize or bargain with it as the collective-bargaining representative of the employees of Titan at a time when it is not certified as such representative and where such picketing has been conducted without a petition under Section 9(c) of the Act being filed within a reasonable period of time not to exceed 30 days from the start of such picketing.

(e) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

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

(a) For a 15-day period commencing from the date that the Board approves this stipulation, we will refrain from resuming any lawful conduct with respect to our labor dispute with Titan.

(b) Within 14 days after service by the Region, post at its union office in Elmsford, New York, copies of the attached notice marked "Appendix A." Copies of the notice, on forms provided by the Regional Director for Region 2, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Sign and return to the Regional Director sufficient copies of the notice for posting by ASF Construction and Excavation Corporation, GFX Site Development, SYP Industries, Specialty Construction System, and Mill Creek Residential Corporation, if willing, at all places where notices to employees are customarily posted.

(d) Within 21 days after service by the Region, file with the Regional Director for Region 2 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., December 22, 2017

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Mark Gaston Pearce, Member

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Lauren McFerran, Member

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William J. Emanuel, 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 ANY APPROPRIATE UNITED STATES COURT OF APPEALS

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

Form, join, or assist a union  
Choose a representative 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** do anything to prevent you from exercising the above rights.

**WE WILL NOT** induce or encourage any individual employed by ASF Construction and Excavation Corporation (ASF) and Specialty Construction System (SCS), or any other person engaged in commerce or in an industry affecting commerce, to engage in a strike or a refusal in the course of his or her employment to perform services where an object thereof is to force ASF and SCS, or any other person, to cease doing business with Titan Concrete, Inc. (Titan).

**WE WILL NOT** picket, threaten to picket, or in any other manner seek to restrain or coerce SCS, ASF, Mill Creek Residential Corporation (Mill Creek), GFX Site Development (GFX), SYP Industries (SYP), or any other person engaged in commerce or in an industry affecting commerce, where an object thereof is to force SCS, ASF, Mill Creek, GFX, SYP, or any other person, to cease doing business with Titan.

**WE WILL NOT** picket, threaten to picket, or in any other manner seek to restrain or coerce Titan where an object thereof is forcing or requiring Titan to recognize or bargain with us as the collective-bargaining representative of its employees or for the purpose of forcing or requiring employees of Titan to accept or select us as their collective-bargaining representative, where Titan has lawfully recognized United Service Workers Union, IUJAT, Local 339, or any other labor organization other than us, and a question concerning representation of said employees may not appropriately be raised under Section 9(c) of the Act

**WE WILL NOT** picket, threaten to picket, or in any other manner seek to restrain or coerce Titan where an object of such picketing is forcing or requiring Titan to recognize or bargain with us as the collective-bargaining representative of the employees of Titan at a time when we are not certified as such representative and where such picketing

has been conducted without a petition under Section 9(c) of the Act being filed within a reasonable period of time not to exceed 30 days from the start of such picketing.

**WE WILL NOT** in any like or related manner restrain or coerce you in the exercise of your rights listed above.

**TEAMSTERS LOCAL 456, INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

The Board's decision can be found at [www.nlr.gov/case/02-CP-189159](http://www.nlr.gov/case/02-CP-189159) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

