

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD

Petitioner

v.

FRANSULA FOODS, LLC D/B/A
GF-EAST PATERSON FOODS, LLC

Respondent

ITEMS SHOWN ON BOARD'S CERTIFICATE
OF RECORD ARE CONTAINED HEREIN

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No.
v.	:	
	:	Board Case Nos.
FRANSULA FOODS, LLC D/B/A	:	22-CA-196390
GF-EAST PATERSON FOODS, LLC	:	22-CA-199467
	:	22-CA-208888
Respondent	:	

CERTIFICATE OF
THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary, authorized by Section 102.115, Rules and Regulations of the National Labor Relations Board, Series 8 (29 C.F.R.), certifies that the documents annexed hereto constitute the entire record of a proceeding had before the Board and known upon its records as Case Nos. 22-CA-196390, 22-CA-199467 and 22-CA-208888.

The attached documents are as follows:

<u>Date</u>	<u>Document Description</u>	<u>Pages</u>
12/21/2018	Decision and Order, <i>Fransula Foods, LLC d/b/a GF-East Paterson Foods, LLC, and United Food & Commercial Workers International Union, Local 464A</i> , Case Nos. 22-CA-196390, 22-CA-199467 and 22-CA-208888	6

<u>Date</u>	<u>Document Description</u>	<u>Pages</u>
08/29/2018	Formal Settlement Stipulation, <i>Fransula Foods, LLC d/b/a GF-East Paterson Foods, LLC, and United Food & Commercial Workers International Union, Local 464A</i> , Case Nos. 22-CA-196390, 22-CA-199467 and 22-CA-208888 w/exhibits 1 - 4	19

IN TESTIMONY WHEREOF, the Executive Secretary of the National Labor Relations Board, being duly authorized, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 31st day of December, 2018.

/s/ Roxanne Rothschild
Roxanne Rothschild
Acting Executive Secretary
NATIONAL LABOR RELATIONS BOARD

(seal)

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

**FRANSULA FOODS, LLC D/B/A GF-EAST
PATERSON FOODS, LLC**

and

**UNITED FOOD & COMMERCIAL WORKERS
INTERNATIONAL UNION, LOCAL 464A**

**Cases 22-CA-196390
22-CA-199467
22-CA-208888**

DECISION AND ORDER

Statement of the Cases

On August 29, 2018, Fransula Foods, LLC d/b/a GF-East Paterson Foods, LLC (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.¹ 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

Findings of Fact

1. The Employer's business

¹ The Charging Party declined to enter into the Formal Settlement Stipulation, but has informed the Region that it has no intention of filing either formal objections or an appeal regarding this 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 concluded that it would effectuate the purposes and policies of the Act to approve the settlement agreement.

(a) The Respondent has been a limited liability company headquartered in Charlotte, North Carolina, with an office and place of business at 498 East 30th Street in Paterson, New Jersey (the Paterson facility), and has been operating a supermarket.

(b) In conducting its business operations during the twelve months preceding its execution of the settlement stipulation, the Respondent purchased and received at the Paterson facility goods valued in excess of \$50,000 directly from points outside the State of New Jersey.

(c) At all material times, the Respondent 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

At all material times, the United Food & Commercial Workers International Union, Local 464A (the Union) has been a labor organization 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, the National Labor Relations Board orders that:

The Respondent, Fransula Foods, LLC d/b/a GF-East Paterson Foods, LLC, Paterson, New Jersey, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Unilaterally decreasing work hours without first notifying and bargaining with the Union;

(b) Unilaterally rescinding the decrease in work hours without first notifying and bargaining with the Union;

(c) Preparing and circulating letters encouraging employees to withdraw from the Union;

(d) Threatening employees with plant closure if the Union secures a collective-bargaining agreement;

(e) Bargaining with the Union without a representative authorized to make decisions on behalf of the Respondent; and

(f) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed by Section 7 of the Act.

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

(a) Bargain in good faith with the Union by having a representative at collective-bargaining negotiations who is authorized to make decisions on behalf of the Respondent;

(b) Within 14 days of service by the Region, make whole employees Omar Almonte Jimenez, Ricardo Correa, Enrique Gonzalez, Samuel Sosa, and Jose Roberto Silva, for wages lost as a result of the Respondent's unilateral changes, by payment to each of them in the amount opposite each name below. The Respondent will make appropriate withholdings for each named employee. No withholdings should be made from the interest portion. The Respondent will also file a report with the Region allocating the payment(s) to the appropriate time periods.

Name	Wages	Interest	Total
Omar Almonte Jimenez	\$120.00	\$5.00	\$125.00
Ricardo Correa	\$282.00	\$12.00	\$294.00
Enrique Gonzalez	\$220.00	\$9.00	\$229.00
Samuel Sosa	\$231.00	\$9.00	\$240.00
Jose Roberto Silva	\$124.00	\$5.00	\$129.00
TOTAL DUE:			\$1,017.00

(c) Within 14 days of service by the Region:

(i) Post at its facility, copies of the attached Notice marked as "Appendix A"²;

(ii) Copies of the Notice, on forms provided by the Regional Director for Region 22, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places at the Respondent's Paterson facility, including all places where notices to employees are customarily posted. The Respondent will take reasonable steps to ensure that the Notices are not altered, defaced, or covered by any other material;

(iii) In the event that, during the pendency of these proceedings, the Respondent has closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the Notice to all current employees and former employees employed by the Respondent at the closed facility at any time since September 1, 2016.

(iv) Within 21 days after service by the Region, file with the Regional Director for Region 22 a sworn certification of a responsible official on a form provided by the

² If this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Region attesting to the steps the Respondent has taken to comply. The Regional Director shall be supplied a copy of the documents signed by the member of store management, attesting to the dates that the notices were received at the Paterson facility, and the dates that the notices were posted.

Dated, Washington, D.C., December 21, 2018

John F. Ring, Chairman

Lauren McFerran, Member

William J. Emanuel, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

**NOTICE TO EMPLOYEES
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 with us 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 do anything to prevent you from exercising the above rights.

WE WILL NOT change the number of hours you work without first notifying and bargaining with the Union.

WE WILL NOT prepare and circulate letters encouraging you to withdraw from the Union.

WE WILL NOT threaten you with closing the supermarket if the Union secures a collective-bargaining agreement.

WE WILL NOT bargain with the Union without a representative authorized to make decisions on behalf of the supermarket.

WE WILL NOT in any other manner interfere with your rights under Section 7 of the Act.

WE WILL make whole Employees Omar Almonte Jimenez, Ricardo Correa, Enrique Gonzalez, Samuel Sosa, and Jose Roberto Silva for any loss of pay suffered because we reduced their working hours without first notifying and bargaining with the Union.

WE WILL bargain in good faith with the Union by having a representative at collective-bargaining negotiations who has the authority necessary to enter into a binding agreement on behalf of the supermarket.

FRANSULA FOODS, LLC D/B/A GF-EAST PATERSON FOODS, LLC

The Board's decision can be found at www.nlrb.gov/case/22-CA-196390 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.



**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

**FRANSULA FOODS, LLC D/B/A GF-EAST
PATERSON FOODS, LLC**

And

**UNITED FOOD & COMMERCIAL WORKERS
INTERNATIONAL UNION, LOCAL 464A**

**Cases 22-CA-196390
22-CA-199467
22-CA-208888**

FORMAL SETTLEMENT STIPULATION

I. INTRODUCTION

Through this formal settlement stipulation, the undersigned parties to this proceeding, Fransula Foods, LLC d/b/a GF-East Paterson Foods, LLC (Respondent) and the General Counsel of the National Labor Relations Board agree that, upon approval of this stipulation by the National Labor Relations Board (the Board), a Board Order in conformity with its terms will issue, and a court judgment enforcing the Order will be entered. The parties agree to the following:

II. JURISDICTION

(a) Respondent has been a limited liability company headquartered in Charlotte, North Carolina with an office and place of business at 498 East 30th Street in Paterson, New Jersey (the Paterson facility) and has been operating a supermarket.

(b) In conducting its business operations during the preceding twelve months, Respondent purchased and received at the Paterson facility goods valued in excess of \$50,000 directly from points outside of the State of New Jersey.

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

III. LABOR ORGANIZATION STATUS

At all material times, the United Food & Commercial Workers International Union, Local 464A (the Union) has been a labor organization within the meaning of Section 2(5) of the Act.

IV. PROCEDURE

1. FILING AND RECEIPT OF CHARGES

A. The charge in Case 22-CA-196390 was filed by the Charging Party on April 4, 2016 and a copy was served on Respondent on April 7, 2017.

B. The charge in Case 22-CA-199467 was filed by the Charging Party, and a copy was served on Respondent on May 25, 2017.

C. The charge in Case 22-CA-208888 was filed by the Charging Party, and a copy was served on Respondent on October 30, 2017.

2. ISSUANCE OF COMPLAINT AND NOTICE OF HEARING

On December 29, 2017, the Regional Director for Region 22 of the Board issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in Cases 22-CA-196390, 22-CA-199467 and 22-CA-208888. The Complaint alleges that Respondent violated Section 8(a)(1) and (5) of the Act and a copy of that Complaint was served by certified mail on Respondent, and by regular mail on the Union, on December 29, 2017. Respondent has acknowledged receipt of a copy of the Complaint.

3. WITHDRAWAL OF ANSWER

By entering into this Stipulation, the parties agree that the Answer to the Complaint, filed by Respondent on January 9, 2018, is withdrawn.

4. WAIVER

The parties waive the following: (a) notice of hearing; (b) the filing of any further Answers; (c) hearing; (d) administrative law judge's decision; (e) filing of exceptions and briefs; (f) oral argument before the Board; (g) the making of findings of fact and conclusions of law by the Board; (h) all other proceedings to which the parties may be entitled under the Act or the Board's Rules and Regulations.

5. THE RECORD

The entire record in this matter consists of this formal settlement stipulation, the charges in Cases 22-CA-196390; 22-CA-199467; 22-CA-208888, attached hereto as Exhibit 1, 2, and 3, respectively, as well as, the Complaint, Exhibit 4.

6. ENTIRE AGREEMENT

The stipulation constitutes the entire agreement between the parties, and there is no agreement of any kind, verbal or otherwise, that alters or adds to it.

7. SCOPE OF THE STIPULATION AND RESERVATION OF EVIDENCE

This stipulation applies only to Respondent's Paterson facility and settles only the allegations in the above-captioned cases and does not constitute a settlement of any other cases or matters. It does not preclude persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the court from finding violations with respect to the matters which precede the date of the approval of this stipulation, regardless of whether those matters are known to the General Counsel or are readily discoverable. The General Counsel reserves the right to use the evidence obtained the investigation and prosecution of the above-captioned case for any relevant purpose in the litigation of this or any other cases, and a judge,

the Board and the courts may make findings of fact/or conclusions of law with respect to that evidence.

8. EFFECTIVE DATE

This stipulation is subject to the approval of the Board, and it does not become effective until the Board has approved it. The Regional Director will file with the Board this stipulation and the documents constituting the record as described above. Once the Board has approved the stipulation, Respondent will immediately comply with the provisions of the order as set forth below.

9. NON-ADMISSION

By entering into this Formal Settlement Stipulation, Respondent does not admit that it has violated the National Labor Relations Act.

V. ORDER

Based on this record as described above, and without further notice of proceedings, the Board may immediately enter an order providing as follows:

Respondent, Fransula Foods LLC d/b/a GF-East Paterson Foods, LLC, its officers, agents, successors and assigns, shall:

1. Cease and desist from:
 - a. Unilaterally decreasing work hours without first notifying and bargaining with the Union;
 - b. Unilaterally rescinding the decrease in work hours without first notifying and bargaining with the Union;
 - c. Preparing and circulating letters encouraging employees to withdraw from the Union;

- d. Threatening employees with plant closure if the Union secures a collective-bargaining agreement;
 - e. Bargaining with the Union without a representative authorized to make decision on behalf of Respondent; and
 - f. In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the
- a. Bargain in good faith with the Union by having a representative at collective-bargaining negotiations who is authorized to make decisions on behalf of Respondent;
 - b. Within 14 days of service by the Region, make whole employees Omar Almonte Jimenez, Ricardo Correa, Enrique Gonzalez, Samuel Sosa, and Jose Roberto Silva, for wages lost as a result of Respondent's unilateral changes, by payment to each of them in the amount opposite each name below. Respondent will make appropriate withholdings for each named employee. No withholdings should be made from the interest portion. Respondent will also file a report with the Region allocating the payment(s) to the appropriate time periods.

Name	Wages	Interest
Omar Almonte Jimenez	\$120.00	\$5.00
Ricardo Correa	\$282.00	\$12.00
Enrique Gonzalez	\$220.00	\$9.00
Samuel Sosa	\$231.00	\$9.00

Jose Roberto Silva	\$124.00	\$5.00
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- c. Within 14 days of service by the Region:
 - i. Post at its facility, copies of the attached Notice marked as Appendix A¹;
 - ii. Copies of the Notice, on forms provided by the Regional Director for Region 22, after being signed by Respondent's authorized representative, shall be posted by Respondent and maintained for 60 consecutive days in conspicuous place at Respondent's Paterson facility, including all places where notices to employees are customarily posted. Respondent will take reasonable steps to ensure that the Notices are not altered, defaced or covered by any other material;
 - iii. In the event that, during the pendency of these proceedings, Respondent has closed the facility involved in these proceedings, Respondent shall duplicate and mail, at its own expense, a copy of the Notice to all current employees and former employees employed by Respondent at the closed facility at any time since September 1, 2016.

¹ If this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

- iv. Within 21 days after service the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply. The Regional Director shall be supplied a copy of the documents signed by the member of store management, attesting to the dates that the notices were received at the Paterson facility, and the dates that the notices were posted.

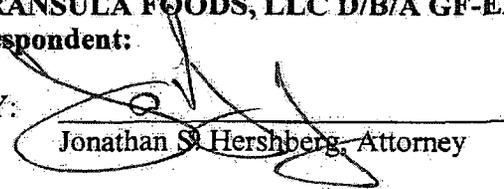
VI. ENFORCEMENT OF ORDER

The United States Court of Appeals for any appropriate circuit may, on application by the Board, enter its judgment enforcing the Order of the Board in the form set above. Respondent waives all defenses to the entry of the judgment, including compliance with the order of the Board and its right to receive notice of the filing of an application for the entry of such judgment, provided that the judgment is in the words set forth above. However, Respondent shall be required to comply with the affirmative provisions of the Board's Order after entry of the judgment only to the extent that it has not already done so.

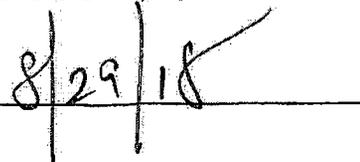
FRANSULA FOODS, LLC D/B/A GF-EAST PATERSON FOODS, LLC

Respondent:

BY:


Jonathan S. Hershberg, Attorney

Date:

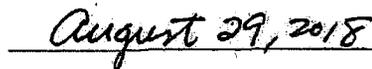

8/29/18

Approved:

BY:


David E. Leach III, Regional Director
National Labor Relations Board
Region 22

Date:


August 29, 2018

Appendix A

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 a representative to bargain with us 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 do anything to prevent you from exercising the above rights.

WE WILL NOT change the number of hours you work without first notifying and bargaining with the Union.

WE WILL NOT prepare and circulate letters encouraging you to withdraw from the Union.

WE WILL NOT threaten you with closing the supermarket if the Union secures a collective-bargaining agreement.

WE WILL NOT bargain with the Union without a representative authorized to make decisions on behalf of the supermarket.

WE WILL NOT in any other manner interfere with your rights under Section 7 of the Act.

WE WILL make whole Employees Omar Almonte Jimenez, Ricardo Correa, Enrique Gonzalez, Samuel Sosa, and José Roberto Silva for any loss of pay suffered because we reduced their working hours with first notifying and bargaining with the Union.

WE WILL bargain in good faith with the Union by having a representative at collective-bargaining negotiations who has the authority necessary to enter into a binding agreement on behalf of the supermarket.

Fransula Foods, LLC d/b/a GF-East Paterson Foods,
LLC

(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. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy 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 or you may call the Board's toll-free number 1-866-667-NLRB (1-866-667-6572). Hearing impaired persons may contact the Agency's TTY service at 1-866-315-NLRB. You may also obtain information from the Board's website: www.nlr.gov.

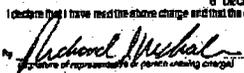
20 WASHINGTON PL
FL 5
NEWARK, NJ

Telephone: (973)645-2100
Hours of Operation: 8:30 a.m. to 5 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.

EXHIBIT 1

<small>OPTIONAL FORM NLRB-407</small> UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER	DO NOT WRITE IN THIS SPACE Case No. 22-CA-196390 Date Filed 4/6/17	
INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.		
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT:		
a. Name of Employer Fransula Foods LLC, Gala Fresh Farm	b. Tel. No. 701-716-1170 c. Cell No. d. Fax No. e. E-Mail	
g. Address (Street, city, state, and ZIP code) 818 E. Arrowwood Rd. Charlotte, NC 28217 (corporation) 488 East 30th St. Peterson, NJ 07504	e. Employer Representative Omer G. Jorge (Company) Miguel Martinez (Manager)	
f. Type of Establishment (factory, mine, wholesaler, etc.) Supermarket	f. Identify principal product or service Grocery	
h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (2) and subsection (3) (3) of the National Labor Relations Act, and those unfair labor practices are practices affecting commerce within the meaning of the Act, or those unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Portal Reorganization Act.		
i. State of the Charge (set forth a clear and concise statement of the facts concerning the alleged unfair labor practices)		
The above named employer has changed working conditions i.e. reducing Full-Time hours for Union Employees without any discussion to the Union about above earned changes.		
Jose Silva has been specifically targeted by the above named Employer by discriminatorily transferring him to different departments while also changing his work schedule because of his association with being a vocal Union supporter.		
j. Full name of party filing charge (if labor organization, give full name, including local name and number) United Food and Commercial Workers Local 484A		
k. Address (Street and address, city, state, and ZIP code) 245 Peterson Ave. Little Falls, NJ 07424	l. Tel. No. 973-256-6700 m. Cell No. n. Fax No. 973-256-1506 o. E-Mail	
p. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) United Food and Commercial Workers Local 484A		
q. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No. 973-256-6700 Office if any, Cell No. Fax No. 973-256-1608 e-Mail
Signature of representative of person making charge:  Richard J. Whalen <small>(Print name and title or office if any)</small>		Date 4/6/17
Address: 245 Peterson Ave. Little Falls, NJ 07424		

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Collection of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to conduct the National Labor Relations Board (NLRB) or processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74342-43 (Dec. 13, 2005). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to make its processes.

EXHIBIT 2

<p style="text-align: center;">UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER</p>	<p>DO NOT WRITE IN THIS SPACE</p> <p>Case: 22-CR-19467 Case File: 6/25/2017</p>	<p>Form NLRB Form 4620 (2-1-17)</p>
<p>INSTRUCTIONS: File in original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.</p>		
<p>1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT</p>		
<p>c. Name of Employer Francis Foods LLC, Gate Fresh Farm</p>		<p>f. Tel. No. 701-176-1170</p>
<p>d. Address (Street, city, state, and ZIP code) 218 E. Arrowwood Rd. Clarks Summit, NC 28217 (Corporate) 458 East 50th Street Paterson, NJ 07504</p>		<p>g. e-Mail</p>
<p>e. Employer Representative Omar G. Janga (Company) Miguel Martinez (Manager)</p>		<p>h. Number of workers employed 30+</p>
<p>2. Type of Establishment (factory, store, wholesaler, etc.) Retail market</p> <p>i. Mainly produced product or service Grocery</p>		
<p>3. The above named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (2) and subsection (3) (B) of the National Labor Relations Act, and these or other unfair labor practices are prohibited affecting commerce within the meaning of the Act and the Federal Restraining Act.</p> <p>4. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices.) The above named Employer has refused to give information and has given false information about work hours and payroll records in response to Union requests. The Employer has prepared and circulated a certification petition. The Employer has threatened employees that if the Union secures a contract, the Employer will close the store.</p>		
<p>5. Full name of party filing charge (if labor organization, give full name, including local name and number) United Food and Commercial Workers Local 484A</p>		
<p>6. Address (Street and number, city, state, and ZIP code) 245 Paterson Ave Little Falls, NJ 07424</p>		<p>7a. Tel. No. 973-256-6780</p> <p>7b. Cell No.</p> <p>7c. Fax No. 973-256-1508</p> <p>7d. e-Mail</p>
<p>8. Full name of national or international labor organization of which this is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization): United Food and Commercial Workers International Union AFL-CIO</p>		
<p>9. DECLARATION I, the undersigned, have read the above charge and the statements are true to the best of my knowledge and belief.</p> <p><i>Richard J. Whalen</i> Richard J. Whalen, Secretary-Treasurer <i>(Print name and title of filer, if any)</i></p>		<p>8a. Tel. No. 973-256-6780</p> <p>8b. Office, Home, Cell No.</p> <p>8c. Fax No. 973-256-1508</p> <p>8d. e-Mail</p>
<p>245 Paterson Avenue Little Falls, NJ 07424</p> <p style="text-align: right;">6/22/17</p>		

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1021)

PRIVACY ACT STATEMENT

Collection of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The information is to be kept confidential in accordance with the Federal Register, 77 Fed. Reg. 74312-2 (Dec. 13, 2012). The NLRB will further explain its use upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information will cause the NLRB to decline to take the necessary

EXHIBIT 3

<p style="font-size: small; margin: 0;">OPTIONAL FORM NO. 10 MAY 1962 EDITION GSA FPMR (41 CFR) 101-11.6</p> <p style="text-align: center; font-weight: bold; margin: 0;">UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER</p> <p style="text-align: right; font-weight: bold; margin: 0;">DO NOT WRITE IN THIS SPACE</p> <p style="margin: 0;">Case <u>22-CA-196390</u> Date Filed <u>4/6/2017</u></p>	<p style="font-size: x-small; margin: 0;">INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.</p> <p style="text-align: center; font-weight: bold; margin: 0;">1. EMPLOYER AGAINST WHICH CHARGE IS BROUGHT</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; padding: 2px;"> <p style="font-size: x-small; margin: 0;">a. Name of Employer Fransula Foods LLC/ Gata Fresh Farm</p> </td> <td style="width: 40%; padding: 2px;"> <p style="font-size: x-small; margin: 0;">b. Tel. No. 701-716-1170</p> </td> </tr> <tr> <td style="padding: 2px;"> <p style="font-size: x-small; margin: 0;">c. Address (Street, city, state, and ZIP code) 518 E. Arrowwood Rd. Cherokee, NC 28217 (corporate) 488 East 30th St. Paterson, NJ 07504</p> </td> <td style="padding: 2px;"> <p style="font-size: x-small; margin: 0;">e. Employer Representative Omer G. Jorge (Company) Miguel Martinez (Manager)</p> </td> </tr> <tr> <td style="padding: 2px;"> <p style="font-size: x-small; margin: 0;">f. Type of Establishment (factory, mine, wholesaler, etc.) Supermarket</p> </td> <td style="padding: 2px;"> <p style="font-size: x-small; margin: 0;">g. Identify principal product or service Grocery</p> </td> </tr> <tr> <td colspan="2" style="padding: 2px;"> <p style="font-size: x-small; margin: 0;">h. 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WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Submission of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 7434-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to make its processes.

EXHIBIT 4

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

**FRANSULA FOODS, LLC D/B/A GF-EAST
PATERSON FOODS, LLC**

and

**UNITED FOOD & COMMERCIAL WORKERS
INTERNATIONAL UNION, LOCAL 464A**

**Cases 22-CA-196390
22-CA-199467
22-CA-208888**

**ORDER CONSOLIDATING CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Case 22-CA-196390, Case 22-CA-199467, and Case 22-CA-208888, which are based on charges filed by United Food & Commercial Workers International Union, Local 464A ("Charging Party" or "Union") against Fransula Foods, LLC d/b/a GF-East Paterson Foods, LLC ("Respondent") are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act ("the Act"), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board ("the Board") and alleges that Respondent has violated the Act as described below.

1. The charge in Case 22-CA-196390 was filed by the Union on April 6, 2017, and a copy was served on Respondent by U.S. mail on April 7, 2017.

2. The charge in Case 22-CA-199467 was filed by the Union, and a copy was served on Respondent by U.S. mail, on May 25, 2017.

3. The charge in Case 22-CA-208888 was filed by the Union, and a copy was served on Respondent by U.S. mail, on October 30, 2017.

4. At all material times, Respondent has been a limited liability company headquartered in Charlotte, North Carolina with an office and place of business at 498 East 30th Street in Paterson, New Jersey ("the Paterson facility") and has been operating a supermarket.

5. In conducting its business operations during the preceding twelve months, Respondent purchased and received at the Paterson facility goods valued in excess of \$50,000 directly from points outside of the State of New Jersey.

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

7. 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:

Aramis Quezada	-	Assistant Store Manager
Bellanerys Castillo	-	Bookkeeper

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

9. The following employees of Respondent ("the Unit") constitute a unit appropriate for the purposes of collective-bargaining within the meaning of Section 9(b) of the Act:

All employees, excluding Managers, Co-Managers, Watchmen, and Guards.

10. From at least October 17, 2010 to November 20, 2016, based on Section 9(a) of the Act, the Union had been the exclusive collective-bargaining representative of the Unit employed by the predecessor employer, Great Atlantic & Pacific Tea Company ("A&P").

11. The Union and A&P were parties to a collective-bargaining agreement, which was effective by its terms from October 17, 2010 through October 17, 2015. The collective-bargaining agreement was then extended to be effective through April 17, 2016.

12. About November 20, 2015, Respondent purchased the Paterson facility and since then has continued to operate the business of A&P in a basically unchanged form and has employed a substantial and representative complement of employees in the Unit, a majority of which had employed by A&P.

13. At all material times since about November 20, 2015, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of Respondent's employees in the Unit.

14. About March 2017, Respondent, by Aramis Quezada, at the Paterson facility threatened its employees with closing the facility if the Union secures a collective-bargaining agreement.

15. About April of 2017, Respondent, by Bellanerys Castillo, at the Paterson facility encouraged and solicited employees to sign a letter withdrawing from the Union.

16. About March of 2017, Respondent decreased the work hours of Unit employees.

17. About April of 2017, Respondent rescinded its decrease of Unit employees' work hours.

18. The subject set forth above in paragraphs 16 and 17 relates to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purpose of collective bargaining.

19. Respondent engaged in the conduct described above in paragraphs 16 and 17 without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct.

20. At various times from about December 7, 2016 through September 7, 2017, Respondent and the Union met for the purposes of negotiating a collective-bargaining agreement with respect to wages, hours, and other terms and conditions of employment.

21. Since on or about June 7, 2017, Respondent has failed to cloak its representative with the authority to enter into binding agreements.

22. By the conduct described above in paragraphs 14 and 15, 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.

23. By the conduct described above in paragraphs 16 and 17 Respondent has failed and refused to bargain in good faith with the Union as the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

24. By the conduct described above in paragraphs 19 and 21 Respondent has failed and refused to bargain collectively with the Union as the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

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

REMEDY

In order to remedy the unfair labor practice set forth above, the General Counsel seeks an Order requiring Respondent to post at its Paterson facility any Notice to Employee that may issue in this proceeding.

General Counsel further seeks, as part of the remedy for the unfair labor practice alleged above, that at a meeting or meetings scheduled to ensure the widest possible attendance, Respondent's representative read the Notice, in English and in Spanish, on work time in the presence of a Board agent. Alternatively, the General Counsel seeks an order requiring that Respondent promptly have a Board agent read the notice to employees during work time in the presence of Respondent's supervisors and agents identified above in paragraph 12 and 13.

General Counsel further seeks, as part of the remedy for the unfair labor practices alleged, an order requiring that Respondent make whole Unit employees for lost wages and benefits suffered as a result of Respondent's unilateral change in working hours.

As part of the remedy for the unfair labor practice alleged above, General Counsel further seeks an Order requiring Respondent to submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods.

General Counsel further seeks all other relief as may be just and proper 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 complaint. The answer must be received by this office on or before January 12, 2018, or postmarked on or before January 11, 2018.

Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and 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 answer 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 continue to 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 still be accomplished by means allowed under 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 a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on the 17th of April, 2018, at 20 Washington Place, 5th Floor, Newark, New Jersey 07102 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 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: December 29, 2017



DAVID E. LEACH III
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 22
20 WASHINGTON PL
FL 5
NEWARK, NJ 07102-3127

Attachments