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UNITED FOOD AND COMMERCIAL WORKERS UNION,
LOCAL 5

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 32

ESMERALDA OCHOA,

Petitioner,

and

INDUS HOLDING CO.,

Employer,

and

UNITED FOOD & COMMERCIAL
WORKERS UNION, LOCAL 5,

Union.

No. 32-RD-247755

**OPPOSITION TO PETITIONER'S
REQUEST FOR REVIEW**

Counsel for the employer has filed an opposition to the Regional Director's decision to stay the Decertification Petition pending further proceedings on two unfair labor practice charges the Union filed. To say the least, it is strange for the employer attorney to file the Petition for Review on behalf of the Petitioner employee, especially as one of the unfair labor practice charge allegations is that the employer assisted the petitioning employee to obtain signatures for a Decertification Petition. The behavior of the employer's attorney to file a brief on behalf of

Petitioner is itself an unfair labor practice, as well as a criminal violation, under 29 U.S.C. § 186(a)(3).

As described in the employer's request for review, there are four factors identified in *Master Slack Corp.*, 271 NLRB 78, 84 (1984) that can be evaluated to determine if a connection exists between the employer's unfair labor practices and the employees' decertification petition. (See Employer's Request for Review, pg. 7) The first factor under *Master Slack* is met because the employees were aware the Employer was assisting the Petitioner in obtaining signatures for a Decertification Petition, by allowing the Petitioner to gather signatures during work time. The employees were also aware the Employer had not met the required number of times with the Union and bargaining committee and for the amount of time specified in the settlement agreement of the complaint in consolidated cases 32-CA-234769 and 32-CA-237872. The second factor in *Master Slack* is also met because the employer's failure to comply with its settlement agreement to bargain the requisite number of times and for the requisite number of hours during a period of time when a Decertification Petition could not have been filed would tend to cause employee dissatisfaction with the Union because less progress was made on a collective bargaining agreement due to the Employer's breach of the underlying settlement agreement. These facts also support the third factor under *Master Slack*, namely that the employer's misconduct affected employee morale by giving them less hope that a collective bargaining agreement would be reached, and undercut the Union's ability to represent organize the membership. The fourth factor of *Master Slack* has been met because there is no conduct by the Union that was the source of the employees' opposition.

The Region stayed the Decertification Petition, however, because what is now apparently employer involvement in support of the Petitioner, the petition should be dismissed. Moreover, it is impossible to believe that the petition was not tainted, given the employer's failure to bargain, failure to comply with the settlement agreement regarding the amount of bargaining

times, and other misconduct alleged in the two unfair labor practice charges the Union recently filed against this employer.

Dated: October 2, 2019

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: /S/ ALAN CROWLEY
 ALAN CROWLEY

UNITED FOOD AND COMMERCIAL
WORKERS UNION, LOCAL 5

