

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 21

GREEN FLEET SYSTEMS, LLC

and

Cases 21-CA-100003
21-CA-115910
21-CA-119154
21-CA-121368

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
PORT DIVISION

ORDER REVOKING SETTLEMENT AGREEMENT,
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 Cases 21-CA-100003, 21-CA-115910, 21-CA-119154, and 21-CA-121368, which are based on charges filed by International Brotherhood of Teamsters, Port Division (Union), against Green Fleet Systems, LLC (Respondent) are consolidated.

This Order Revoking Settlement Agreement, 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, 29 U.S.C. Sec. 151 et seq. (the Act), and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below:

1. (a) The original charge in Case 21-CA-100003 was filed by the Union on March 8, 2013, and a copy was served on Respondent by regular mail on March 11, 2013.

(b) The first amended charge in Case 21-CA-100003 was filed by the Union on May 7, 2013, and a copy was served on Respondent by regular mail on May 8, 2013.

(c) The second amended charge in Case 21-CA-100003 was filed by the Union on June 19, 2013, and a copy was served on Respondent by regular mail on June 20, 2013, and served again on June 25, 2013.

(d) The original charge in Case 21-CA-115910 was filed by the Union on October 29, 2013, and a copy was served on Respondent by regular mail on October 30, 2013.

(e) The first amended charge in Case 21-CA-115910 was filed by the Union on December 17, 2013, and a copy was served on Respondent by regular mail on December 17, 2013.

(f) The charge in Case 21-CA-119154 was filed by the Union on December 17, 2013, and a copy was served on Respondent by regular mail on December 17, 2013.

(g) The original charge in Case 21-CA-121368 was filed by the Union on January 28, 2014, and a copy was served on Respondent by regular mail on January 28, 2014

(h) The first amended charge in Case 21-CA-121368 was filed by

the Union on March 31, 2014, and a copy was served on Respondent by regular mail on April 2, 2014.

2. (a) At all material times, Respondent, a Delaware corporation, with a facility located at 20500 Alameda Street, Carson, California, herein called the facility, has been engaged in the business of non-retail drayage, transportation, and warehousing services.

(b) During the 12-month period ending May 31, 2014, a representative period, Respondent, in conducting its business operations described above in paragraph 2(a), provided services valued in excess of \$50,000 directly to customers located outside the State of California.

(c) During the 12-month period ending May 31, 2014, a representative period, Respondent, in conducting its business operations described above in paragraph 2(a), purchased and received at its Carson, California facility goods valued in excess of \$50,000 directly from points outside the State of California.

3. 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.

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

5. (a) At all material times, the following individuals have 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:

Gary Mooney	President
Toby Slayman	General Manager
Darlene Stevens	Human Resources and Safety Director
Giselle Rodriguez	Safety Supervisor

(b) At all material times, Ricardo Pasalagua has held the position of Respondent's Labor Consultant and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

(c) At all material times since at least on or about May 28, 2013, Xiomara Perez Barragan has held the position of driver for Respondent and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

6. Respondent, by Giselle Rodriguez, at Respondent's facility:

(a) About February 13, 2013, at the dispatch window, solicited antiunion action by soliciting its employees to sign an anti-union petition.

(b) About March 22, 2013, at the dispatch window, by soliciting employee complaints and grievances, promised its employees increased benefits and improved terms and conditions of employment if they refrained from union organizational activity.

(c) About March 22, 2013, at the dispatch window, interrogated its employees regarding their union membership, activities, and sympathies.

(d) In or about July 2013, in a work area near Rodriguez's office, interrogated its employees regarding their union membership, activities, and sympathies.

(e) In or about December 2013, in a work area near Rodriguez's office, interrogated its employees regarding their union membership, activities, and sympathies.

(f) About January 8, 2014, in a work area near Rodriguez's office, solicited antiunion action by assisting employees in the circulation of an antiunion petition.

7. Respondent, by Ricardo Pasalagua, at Respondent's facility:

(a) Sometime between in or about April 2013 and in or about December 2013, in either the drivers' room or in the warehouse, threatened its employees with job loss and plant closure if they engaged in union activities.

(b) Sometime between in or about April 2013 and December 2013, in either the drivers' room or in the warehouse, threatened its employees with job loss and plant closure if they engaged in union activities.

(c) About September 12, 2013, in the drivers' room, threatened its employees with job loss and plant closure if they engaged in union and concerted activities at customer locations.

(d) About October 28, 2013, in a back office,
(i) interrogated its employees about their union membership, activities, and sympathies.

(ii) implicitly threatened its employees with unspecified reprisals if they engaged in union or concerted activities.

(e) In or about November 2013, in an office, threatened its employees with plant closure if they selected a union to represent them.

(f) In or about January 2014, near the dispatch area, interrogated its employees about their union membership, activities, and sympathies.

(g) About February 25, 2014, in an office at the Respondent's facility,

(i) by telling employees that Respondent had a list of the employees involved, created the impression among its employees that their union and

concerted activities, including their participation in unfair labor practice charge investigations, were under surveillance by Respondent.

(ii) threatened its employees with unspecified reprisals unless the employees sought to have unfair labor practice charges filed against Respondent withdrawn.

(iii) threatened to sue its employees because of their participation in the investigation of unfair labor practice charges.

(h) About February 26, 2014, in an office, threatened to sue its employees for filing and pursuing unfair labor practice charges.

8. (a) About April 30, 2013, Respondent, through a memo, promulgated and since then has maintained new rules limiting employee access to Respondent's facility.

(b) Respondent promulgated and maintained the rules described above in paragraph 8(a) to discourage its employees from forming, joining, or assisting the Union or engaging in other concerted activities.

9. Respondent, by Toby Slayman, at Respondent's facility:

(a) About May 16, 2013, near the Alameda entrance, by taking pictures, engaged in surveillance of employees that were engaged in union and concerted activities.

(b) About August 26, 2013, near the security guard office, by videotaping, engaged in surveillance of employees that were engaged in union and concerted activities.

(c) About August 27, 2013, near the security guard office, by videotaping, engaged in surveillance of employees that were engaged in union and concerted activities.

(d) About August 27, 2013, near the security guard office, by videotaping, engaged in surveillance of employees that were engaged in union and concerted activities.

10. Respondent, by engaging in the conduct described in paragraphs 10(a) through (f) below, encouraged its employees to identify, harass, and intimidate employees that supported the Union:

(a) About June 22, 2013, Respondent, by Darlene Stevens and Ricardo Pasalagua, in the drivers' room at Respondent's facility, asked its employees to ascertain and disclose to Respondent the union membership, activities, and sympathies of other employees.

(b) About July 20, 2013, Respondent, by Ricardo Pasalagua, in the drivers' room at Respondent's facility, instructed employees to harass the employees that supported the Union, and to provoke those employees into engaging in physical altercations so that those employees could be terminated.

(c) About July 20, 2013, Respondent, by Ricardo Pasalagua and Xiomara Perez Barragan, in the drivers' room, encouraged employees to harass and provoke those employees that supported the Union.

(d) About August 26, 2013, Respondent, by Ricardo Pasalagua, in the doorway leading into the drivers' room at Respondent's facility, instructed employees to direct derogatory remarks and gestures to those employees that supported the Union.

(e) About September 12, 2013, Respondent, by Ricardo Pasalagua, in the drivers' room at Respondent's facility, instructed employees to harass those employees that supported the Union.

(f) On various dates between in or about April 2013 and in or about December 2013, Respondent, by Xiomara Perez Barragan, in the drivers' room at Respondent's facility, told employees that the employees that supported the Union should or deserved to die.

(g) In or about February 2014, as a result of Respondent's conduct described above in paragraph 10(a) through (f), and with Respondent's condonation, an employee of Respondent assaulted an employee that supported the Union.

11. Respondent, by Darlene Stevens, at Respondent's facility:

(a) About August 26, 2013, by taking pictures, engaged in surveillance of employees that were engaged in union and concerted activities.

(b) In or about January 2014, near the drivers' room, implicitly threatened its employees with discharge if they engaged in union and concerted activities.

12. Respondent, by Xiomara Perez Barragan, at Respondent's facility:

(a) In or about September 2013, solicited antiunion action by providing financial assistance to employees to use for purposes of opposing the Union organizational drive.

(b) In or about January 2014, in the drivers' room, threatened its employees with discharge if they engaged in union and concerted activities.

(c) About January 8, 2014, solicited antiunion action by assisting employees in the circulation of an anti-union petition.

13. About October 29, 2013, Respondent, by Ricardo Pasalagua and Xiomara Perez Barragan, in the drivers' room, solicited antiunion action by instructing its employees to sign an anti-union petition.

14. (a) About July 18, 2013, Respondent's employees engaged in concerted activities with each other for the purposes of mutual aid and protection, and with the assistance of the Union, by filing wage claims with the State of California, Department of Industrial Relations – Division of Labor Standards Enforcement (State Labor Commissioner).

(b) About January 2, 2014, Respondent, by Gary Mooney and an interpreter, at an office at Respondent's facility,

(i) threatened to sue its employees for filing and pursuing the wage claims described above in paragraph 14(a).

(ii) conditioned its employees' continued employment on the withdrawal of the wage claims described above in paragraph 14(a).

(c) About January 2, 2014, Respondent, by Gary Mooney and an interpreter, at an office at Respondent's facility, conditioned its employees' continued employment with Respondent on the withdrawal of the wage claims described above in paragraph 14(a).

(d) About January 8, 2014, Respondent, by Gary Mooney and an interpreter, at an office at Respondent's facility, conditioned its employees' continued employment with Respondent on the withdrawal of the wage claims described above in paragraph 14(a).

(e) About January 8, 2014, Respondent, by Gary Mooney and an interpreter, at an office at Respondent's facility,

(i) threatened to sue its employees for filing and pursuing the wage claims described above in paragraph 14(a).

(ii) conditioned its employees' continued employment with Respondent on the employees withdrawing the wage claims described above in paragraph 14(a).

15. (a) About August 28, 2013, Respondent issued a written warning to employee Paul Quinto.

(b) On various dates beginning on or about November 18, 2013, Respondent has,

(i) delayed or obstructed employee Yasser Castillo from beginning work by delaying in issuing him his work key.

(ii) assigned employee Yasser Castillo to vehicles that are in poor condition.

(c) Respondent engaged in the conduct described above in paragraphs 15(a) and 15(b) because the named employees of Respondent joined or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

16. (a) About November 19, 2013, Respondent prevented employee Amilcar Cardona from working.

(b) About November 20, 2013, Respondent removed the radio frequency identification device tag from employee Amilcar Cardona's vehicle.

(c) About November 20, 2103, Respondent removed the radio frequency identification device tag from employee Mateo Mares' vehicle.

(d) About January 8, 2014, Respondent terminated its employee Amilcar Cardona.

(e) About January 8, 2014, Respondent terminated its employee Mateo Mares.

(f) Respondent engaged in the conduct described above in paragraphs 16(a) through 16(e), because the named employees of Respondent joined or assisted the Union and engaged in concerted activities, including, but not limited to the union and concerted activities described above in paragraph 14(a), and to discourage employees from engaging in these activities.

17. By the conduct described above in paragraphs 6 through 13, 14(b) through 14(e), and 16(a) through (f), 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.

18. By the conduct described above in paragraphs 15(a) and (b), and paragraphs 16(a) through 16(f), Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

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

20. (a) In disposition of Case 21-CA-100003, Respondent and the Union entered into an informal settlement agreement, which was approved on September 26, 2013.

(b) In light of the conduct described above in paragraphs 6(d) through 6(f), 7 through 13, 14(b) through 14(e), 15, and 16, Respondent violated the terms of the settlement agreement described above in paragraph 20(a).

(c) It is therefore ORDERED, pursuant to Section 101.9(e)(2) of the Board's Rules, that the settlement agreement described above in paragraph 20(a) is vacated and set aside.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraphs 6 through 13, 14(b) through 14(e), 15, and 16, the General Counsel seeks an order requiring that the Notice to Employees be read by Respondent in English and Spanish to assembled employees at the facility during paid working time. Attendance at the Notice reading shall be mandatory. The 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 consolidated complaint. The answer must be received by this office on or before **July 2, 2014**, or postmarked on or before **July 1, 2014**. 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.nlrb.gov, click on **File Case Documents**, enter the NLRB Case

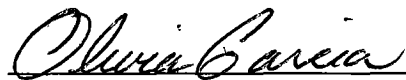
Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is 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 consolidated complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT commencing at 1:00 p.m., PDT on August 25, 2014, in Hearing Room 902, 888 South Figueroa Street, Ninth Floor, Los Angeles, California, 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 the consolidated 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 at Los Angeles, California, this 18th day of June, 2014.

A handwritten signature in cursive script, reading "Olivia Garcia", is positioned above a horizontal line.

Olivia Garcia, Regional Director
National Labor Relations Board
Region 21
888 South Figueroa Street, Ninth Floor
Los Angeles, CA 90017-5449

Attachments

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.
- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.