

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 19**

RAIN CITY CONTRACTORS, INC.

and

Case 19-CA-31580

PACIFIC NORTHWEST REGIONAL COUNCIL OF  
CARPENTERS, affiliated with UNITED  
BROTHERHOOD OF CARPENTERS AND  
JOINERS OF AMERICA

**COMPLAINT AND NOTICE OF HEARING**

Pacific Northwest Regional Council of Carpenters, affiliated with United Brotherhood of Carpenters and Joiners of America (the "Union"), has charged in Case 19-CA-31580 that Rain City Contractors, Inc. ("Respondent"), has been engaging in unfair labor practices as set forth in the National Labor Relations Act (the "Act"), 29 U.S.C. § 151, *et seq.* Based thereon, the General Counsel of the National Labor Relations Board (the "Board"), by the undersigned, pursuant to § 10(b) of the Act and § 102.15 of the Rules and Regulations issues this Complaint and Notice of Hearing and alleges as follows:

1.

(a) The Charge in Case 19-CA-31580 was filed by the Union on October 21, 2008, and was served on Respondent by regular mail on about October 22, 2008.

(b) The First Amended Charge in Case 19-CA-31580 was filed by the Union on January 13, 2009, and was served on Respondent by regular mail on about that date.

(c) The Second Amended Charge in Case 19-CA-31580 was filed by the Union on January 27, 2009, and was served on Respondent by regular mail on about that date.

2.

(a) Respondent is a State of Washington corporation engaged in the business of concrete foundation contracting with an office and place of business in Lakewood, Washington.

(b) Respondent, during the past twelve months, which period is representative of all material times, in conducting its business operations described above in paragraph 2(a), purchased and received at its construction sites in the State of Washington, goods valued in excess of \$50,000 directly from points located outside the State of Washington.

(c) Respondent has been at all material times an employer engaged in commerce within the meaning of Sections 2(2), (6) and (7) of the Act and an employer in the building and construction industry.

3.

The Union is, and has been at all material times, a labor organization within the meaning of Section 2(5) of the Act.

4.

(a) At all material times the following individuals held the positions set forth opposite their respective names and have been supervisors within the meaning of Section 2(11) of the Act, and/or agents within the meaning of Section 2(13) of the Act, acting on behalf of Respondent:

Kenneth D. Pearson	- President
Ed Diamond ("La Perra")	- Owner
Carlos Alejandres	- Supervisory Foreman

Miguel Angel Domingo	-	Lead Foreman
Alvaro (last name unknown)	-	Foreman
"El Grande" (name unknown)	-	Foreman
Josh Judge	-	Safety Coordinator
Jeff Olson	-	Driver Coordinator

(b) At all material times the following individuals held the positions set forth opposite their respective names and have been agents within the meaning of Section 2(13) of the Act, acting on behalf of Respondent:

Wenseslao (last name unknown)	-	Consultant
Unknown male	-	Consultant

5.

(a) In about July, 2008, Respondent's employees Henri Portillo and Jose Ramirez engaged in concerted activities with other employees for the purposes of collective bargaining and other mutual aid and protection, by appearing on a video which was posted to You Tube on or about July 21, 2008 in which they discussed Respondent's workplace safety practices at Respondent's Point Ruston, Washington, job site, with their faces, but not their voices, disguised.

(b) Beginning on or about July 28, 2008, at its Bellevue, Washington job site, Respondent by Carlos Alejandro demoted employees Henri Portillo and Jose Fermin Molina from carpenters to laborers and assigned them laborer tasks.

(c) On about July 30, 2008, Respondent laid off Henri Portillo and Jose Fermin Molina.

(d) Respondent engaged in the conduct described above in paragraph 5(b) and (c) because Respondent believed Portillo and either Molina and/or Molina's brother, Jose Ramirez, engaged in the conduct described above in paragraph 5(a), and to discourage employees from engaging in these or other protected, concerted activities.

6.

(a) On about July 29, 2008, at its Sea Tac, Washington, job site, Respondent assigned an arduous task to its employees Jose Ramirez, Samuel Lozano and Jose Antonio Moreno Urias.

(b) About July 30, 2008, Respondent discharged employees Jose Ramirez, Samuel Lozano and Jose Antonio Moreno Urias.

(c) Respondent engaged in the conduct described above in paragraph 6(a) and 6(b) because Respondent believed Jose Ramirez and/or Ramirez' brother, Jose Antonio Molina, engaged in the conduct described above in paragraph 5(a), and to discourage employees from engaging in these or other protected, concerted activities.

7.

(a) On or about August 30, 2008, at its Sea Tac, Washington, job site, Respondent, by Carlos Alejandres, told employees he would physically harm employee Henri Portillo because Portillo was talking about Respondent's workplace practices.

(b) On or about September 25, 2008, at its Point Ruston, Washington job site, Respondent, by Carlos Alejandres and Miguel Angel Domingo:

- i. Threatened employees with the withholding of raises due to the "Federal Charge" that was filed;
- ii. Interrogated employees about their union activities;
- iii. Impliedly threatened employees with job loss if they talked to the Union about working conditions at Respondent's job sites;
- iv. Impliedly threatened employees with job loss if they talked to the Union about the September 25, 2008, job site meeting;  
and

- v. Threatened employees with no re-hire if they worked union and then re-applied to work for Respondent.

(c) On or about September 29, 2008, at its Point Ruston, Washington, job site, Respondent, through agents Wenseslao (last name unknown) and a male consultant whose name is unknown to General Counsel but known to Respondent, interrogated employees in one-on-one meetings about their own and their co-workers' union sympathies and activities.

(d) About October 31, 2008, at its Point Ruston, Washington job site, Respondent, through Miguel Angel Domingo and Carlos Alejandres:

- i. Interrogated employees regarding whether they had talked to the Union or picked up flyers from the Union the day before;
- ii. Instructed employees to turn over any union flyers they had picked up; and
- iii. Instructed employees not to talk about working conditions at Respondent's work sites to outsiders.

(e) On or about December 10, 2008, Respondent, by Miguel Angel Domingo, while travelling by car between Respondent's job sites, interrogated an employee regarding the employee's knowledge regarding the worker or workers responsible for providing information to the Union.

8.

By the acts described above in paragraphs 5, 6, and 7, 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.

9.

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

**WHEREFORE**, as part of the remedy for the unfair labor practices alleged above in paragraphs 5 and 6, the General Counsel seeks an Order requiring Respondent to make whole employees adversely affected, including, *inter alia*, backpay and quarterly compound interest on any back pay or monetary remedies ordered in this case.

#### **NOTICE OF HEARING**

**PLEASE TAKE NOTICE** that on the 23<sup>rd</sup> day of March, 2009, at 1:00 p.m. in the James C. Sand Hearing Room, Room 2966, Jackson Federal Building, 915 Second Avenue, Seattle, Washington, 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.

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 February 12, 2009, or postmarked on or before February 11, 2009**. 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 by using the E-filing system on the Agency's website. In order to file an Answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the Answer rests exclusively upon the sender. 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. When an Answer is filed electronically, an original and four paper copies must be sent to this office so that it is received no later than three 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, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Complaint are true.

**DATED** at Seattle, Washington, this 29<sup>th</sup> day of January, 2009.

/s/ RICHARD L. AHEARN

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Richard L. Ahearn, Regional Director  
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