FORM NLRB-501
(3-21)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case **01-CA-296284**	Date Filed **5/23/2022**

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
City Feed and Supply

b. Tel. No.
(617) 835-6253

c. Cell No.

f. Fax. No.

d. Address *(Street, city, state, and ZIP code)*
672 Centre Street

MA Jamaica Plain 02130

e. Employer Representative
(b) (6), (b) (7)(C)
[redacted]

g. e-mail
[redacted]@cityfeedandsupply.com

h. Number of workers employed
34

i. Type of Establishment *(factory, mine, wholesaler, etc.)*
Retail (Grocery)

j. Identify principal product or service
Groceries & Prepared food

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 1 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge *(set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)*

--See additional page--

(b) (6), (b) (7)(C) of party filing charge *(if labor organization, give full name, including lo* (b) (6), (b) (7)(C) *ber)*
Industrial Workers of the World, Boston General Membership Branch

4a. Address *(Street and number, city, state, and ZIP code)*
(b) (6), (b) (7)(C)
[redacted]

4b. Tel. No.
(b) (6), (b) (7)(C)

4c. Cell No.

4d. Fax No.

4e. e-mail
[redacted]@iww.org

5. 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)*

Industrial Workers of the World

6. DECLARATION
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

(b) (6), (b) (7)(C)
[redacted]
(signature of representative or person making charge)

(b) (6), (b) (7)(C)
[redacted]
(Print/type name and title or office, if any)

Address (b) (6), (b) (7)(C)
[redacted]

Date 05/23/2022 08:34:25 PM

Tel. No.
(b) (6), (b) (7)(C)

Office, if any, Cell No.

Fax No.

e-mail
[redacted]@iww.org

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

Solicitation 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. 74942-43 (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 may cause the NLRB to decline to invoke its processes.

Basis of the Charge

8(a)(1)

Within the previous six-months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by maintaining work rules that prevent or discourage employees from engaging in protected concerted activities.

Work Rule
Reporting policy re: sexual harassment

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 1
Thomas P. O'Neill Jr. Federal Building
10 Causeway Street, Room 601
Boston, MA 02222-1001

Agency Website: www.nlrb.gov
Telephone: (617) 565-6700
Fax: (617) 565-6725

Download NLRB Mobile App

May 24, 2022

(b) (6), (b) (7)(C)
INDUSTRIAL WORKERS OF THE WORLD
BOSTON GENERAL MEMBERSHIP BRANCH
(b) (6), (b) (7)(C)

Re: CITY FEED AND SUPPLY
Case 01-CA-296284

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on May 23, 2022 has been docketed as case number 01-CA-296284. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner ESSIE ABLAVSKY whose telephone number is (202) 273-3961. If this Board agent is not available, you may contact Supervisory Field Examiner DINA M. RAIMO PELHAM whose telephone number is (959) 200-7377.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

LAURA A. SACKS
Regional Director

LAS/rg

cc: MARK STERN, ATTORNEY
MARK D. STERN, P.C.
34 LIBERTY AVENUE
SOMERVILLE, MA 02144

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 1
Thomas P. O'Neill Jr. Federal Building
10 Causeway Street, Room 601
Boston, MA 02222-1001

Agency Website: www.nlrb.gov
Telephone: (617) 565-6700
Fax: (617) 565-6725

Download
NLRB
Mobile App

May 24, 2022

(b) (6), (b) (7)(C)
CITY FEED AND SUPPLY
672 CENTRE STREET
JAMAICA PLAIN, MA 02130

Re: CITY FEED AND SUPPLY
Case 01-CA-296284

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner ESSIE ABLAVSKY whose telephone number is (202) 273-3961. If this Board agent is not available, you may contact Supervisory Field Examiner DINA M. RAIMO PELHAM whose telephone number is (959) 200-7377.

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If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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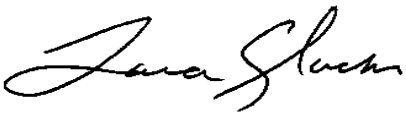
We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



LAURA A. SACKS
Regional Director

LAS/rg

Enclosures:
1. Copy of Charge
2. Commerce Questionnaire

FORM NLRB-5081
(3-11)

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER
City Feed and Supply	01-CA-296284

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

[ ] CORPORATION [ ] LLC [ ] LLP [ ] PARTNERSHIP [ ] SOLE PROPRIETORSHIP [ ] OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS *(Products handled or manufactured, or nature of services performed).*

7A. PRINCIPAL LOCATION:	7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:	B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT *(Check the appropriate box):* [ ] **CALENDAR** [ ] **12 MONTHS** or [ ] **FISCAL YEAR** *(FY DATES _____)*

	YES	NO
A. Did you **provide services** valued in excess of $50,000 directly to customers outside your State? If no, indicate actual value. $_____		
B. If you answered no to 9A, did you **provide services** valued in excess of $50,000 to customers in your State who purchased goods valued in excess of $50,000 from directly outside your State? If no, indicate the value of any such services you provided. $_____		
C. If you answered no to 9A and 9B, did you **provide services** valued in excess of $50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than $50,000, indicate amount. $_____		
D. Did you **sell goods** valued in excess of $50,000 directly to customers located outside your State? If less than $50,000, indicate amount. $_____		
E. If you answered no to 9D, did you **sell goods** valued in excess of $50,000 directly to customers located inside your State who purchased other goods valued in excess of $50,000 from directly outside your State? If less than $50,000, indicate amount. $_____		
F. Did you **purchase and receive goods** valued in excess of $50,000 from directly outside your State? If less than $50,000, indicate amount. $_____		
G. Did you **purchase and receive goods** valued in excess of $50,000 from enterprises who received the goods directly from points outside your State? If less than $50,000, indicate amount. $_____		
H. **Gross Revenues** from all sales or performance of services ***(Check the largest amount)*** [ ] $100,000 [ ] $250,000 [ ] $500,000 [ ] $1,000,000 or more If less than $100,000, indicate amount.		
I. **Did you begin operations within the last 12 months?** If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

[ ] YES [ ] NO *(If yes, name and address of association or group).*

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE *(Type or Print)*	SIGNATURE	E-MAIL ADDRESS	DATE

PRIVACY ACT STATEMENT

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UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

CITY FEED AND SUPPLY Charged Party and **INDUSTRIAL WORKERS OF THE WORLD, BOSTON GENERAL MEMBERSHIP BRANCH** Charging Party	**Case 01-CA-296284**

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on May 24, 2022**,** I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)
CITY FEED AND SUPPLY
672 CENTRE STREET
JAMAICA PLAIN, MA 02130

May 24, 2022
Date

Robert Gaffney, Designated Agent of NLRB
Name

/s/ Robert Gaffney
Signature

FORM NLRB-4701
(9-03)

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

City Feed & Supply

Employer

and

Industrial Workers of the World, Boston General Membership Branch

Petitioner

CASE 01-CA-296284

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF City Feed & Supply

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Ryan W. Jaziri, Esq.

MAILING ADDRESS: Morgan, Brown & Joy, LLP, 200 State Street, Suite 11A, Boston, MA 02109

E-MAIL ADDRESS: rjaziri@morganbrown.com

OFFICE TELEPHONE NUMBER: 617-523-6666

CELL PHONE NUMBER: _____ *FAX:* 617-367-3125

SIGNATURE: Ryan W. Jaziri
(Please sign in ink.)

DATE: May 31, 2022

[1] IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

FORM NLRB-4701
(9-03)

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

City Feed & Supply

Employer

and

Industrial Workers of the World, Boston General Membership Branch

Petitioner

CASE 01-CA-296284

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF City Feed & Supply

IN THE ABOVE-CAPTIONED MATTER.

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(REPRESENTATIVE INFORMATION)

NAME: Jaclyn L. Kawka, Esq.

MAILING ADDRESS: Morgan, Brown & Joy, LLP, 200 Street Street, Suite 11A, Boston, MA 02109

E-MAIL ADDRESS: jkawka@morganbrown.com

OFFICE TELEPHONE NUMBER: 617-788-5019

CELL PHONE NUMBER: _____ *FAX:* 617-367-3125

SIGNATURE: Jaclyn L. Kawka
(Please sign in ink.)

DATE: 7/13/2022

[1] IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

Form NLRB - 501 (3-21)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

AMENDED CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
01-CA-296284	Sept. 29, 2022

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 CITY FEED AND SUPPLY		b. Tel. No. (617)835-6253 c. Cell No.
d. Address (*Street, city, state, and ZIP code*) 672 Centre Street, Jamaica Plain, MA 02130	e. Employer Representative (b) (6), (b) (7)(C)	f. Fax No. g. e-mail (b) (6), (b) (7)(C) @cityfeedandsupply.com h. Number of Workers Employed 34
i. Type of Establishment (*factory, mine, wholesaler, etc.*) Retail (Grocery)	j. Identify Principal Product or Service (b) (6), (b) (7)(C)	

l. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (*set forth a clear and concise statement of the facts constituting the alleged unfair labor practices*)

See attachment.

3. Full name of party filing charge (*if labor organization, give full name, including local name and number*) Industrial Workers of the World, Boston General Membership Branch	
4a. Address (*Street and number, city, state, and ZIP code*) (b) (6), (b) (7)(C)	4b. Tel. No. (b) (6), (b) (7)(C) 4c. Cell No. 4d. Fax No. 4e. e-mail (b) (6), (b) (7)(C) @iww.org
5. 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*) Industrial Workers of the World	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. (b) (6), (b) (7)(C) (*signature of representative or person making charge*) (*Print/type name and title or office, if any*) Address: (b) (6), (b) (7)(C) Date: September 29, 2022	Tel. No. (b) (6), (b) (7)(C) Office, if any, Cell No. Fax No. e-mail (b) (6), (b) (7)(C) @iww.org

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

PRIVACY ACT STATEMENT

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In about January and May of 2022, the Employer, by (b) (6), (b) (7)(C) , coercively directed employees to report on conversations between coworkers regarding sexual harassment issues.

In about January, February and May of 2022, the Employer, by (b) (6), (b) (7)(C) , interrogated an employee about their protected concerted activities by questioning them about their conversations with coworkers regarding sexual harassment issues.

In about January of 2022, the Employer, by (b) (6), (b) (7)(C) , made a threat of unspecified reprisal for failing to report on protected conversations with coworkers.

In about January of 2022, the Employer, by (b) (6), (b) (7)(C) , threatened an employee with termination for engaging in protected concerted activity.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 1
Thomas P. O'Neill Jr. Federal Building
10 Causeway St, Room 1002
Boston, MA 02222-1001

Agency Website: www.nlrb.gov
Telephone: (617)565-6700
Fax: (617)565-6725

Download NLRB Mobile App

October 3, 2022

(b) (6), (b) (7)(C)
Industrial Workers of The World, Boston
General Membership Branch
(b) (6), (b) (7)(C)

Re: CITY FEED AND SUPPLY
Case 01-CA-296284

Dear (b) (6), (b) (7)(C):

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Examiner ESSIE ABLAVSKY whose telephone number is (202)273-3961. If the agent is not available, you may contact Supervisory Field Examiner DINA M. RAIMO PELHAM whose telephone number is (959)200-7377.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

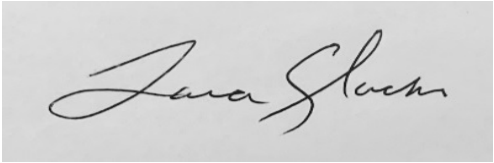
Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the

Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,



Laura A. Sacks
Regional Director

cc: Mark Stern, Attorney
Mark D. Stern, P.C.
34 Liberty Avenue
Somerville, MA 02144

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 1
Thomas P. O'Neill Jr. Federal Building
10 Causeway St, Room 1002
Boston, MA 02222-1001

Agency Website: www.nlrb.gov
Telephone: (617)565-6700
Fax: (617)565-6725

Download
NLRB
Mobile App

October 3, 2022

(b) (6), (b) (7)(C)
CITY FEED AND SUPPLY
672 Centre Street
Jamaica Plain, MA 02130

Re: CITY FEED AND SUPPLY
Case 01-CA-296284

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Examiner ESSIE ABLAVSKY whose telephone number is (202)273-3961. If the agent is not available, you may contact Supervisory Field Examiner DINA M. RAIMO PELHAM whose telephone number is (959)200-7377.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

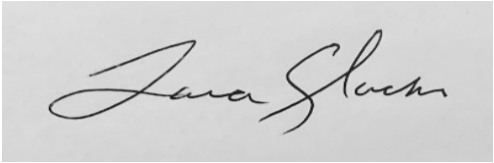
Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to

comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,



LAURA A. SACKS
Regional Director

Enclosure: Copy of first amended charge

cc: Ryan Jaziri, Atty.
Jaclyn L. Kawka, Atty.
Morgan Brown & Joy LLP
200 State Street, Suite 11A
Boston, MA 02109

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

CITY FEED AND SUPPLY Charged Party and **INDUSTRIAL WORKERS OF THE WORLD, BOSTON GENERAL MEMBERSHIP BRANCH** Charging Party	**Case 01-CA-296284**

AFFIDAVIT OF SERVICE OF <u>FIRST AMENDED CHARGE AGAINST EMPLOYER</u>

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on October 3, 2022**,** I served the above-entitled document(s) by email and regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)
City Feed and Supply
672 Centre Street
Jamaica Plain, MA 02130

Ryan Jaziri, Atty.
Jaclyn L. Kawka, Atty.
Morgan Brown & Joy LLP
200 State Street, Suite 11A
Boston, MA 02109

October 3, 2022
Date

Terri L. Gupton, Designated Agent of NLRB
Name

Terri L. Gupton
Signature

FORM NLRB-502 (RC)
(2-18)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

RC PETITION

DO NOT WRITE IN THIS SPACE	
Case No. 01-RC-295185	Date Filed 5-4-22

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlrb.gov/, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. **PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. **The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.**

2a. Name of Employer:
1369 LLC d/b/a 1369 Coffee House

2b. Address(es) of Establishment(s) involved *(Street and number, City, State, ZIP code):*
1369 Cambridge St., Cambridge, MA 02139
757 Massachusetts Ave., Cambridge, MA 02139

3a. Employer Representative - Name and Title:
Joshua Gerber, Owner/Manager

3b. Address *(if same as 2b - state same):*
1369 Cambridge St., Cambridge, MA 02139

3c. Tel. No.	3d. Cell No.	3e. Fax No.	3f. E-Mail Address
(617) 576-4600			jwgerber@1369coffeehouse.com

4a. Type of Establishment *(Factory, mine, wholesaler, etc.)*	4b. Principal Product or Service	5a. City and State where unit is located:
Coffee shop/cafe	Food/beverage	Cambridge, MA

5b. Description of Unit Involved:
Included:
Please see attached.
Excluded:
Please see attached.

6a. Number of Employees in Unit:
17

6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? ☒ Yes ☐ No

Check One: ☒ 7a. Request for recognition as Bargaining Representative was made on (Date) 04/28/22 and Employer declined recognition on or about (Date) 05/03/22 (If no reply received, so state).
☐ 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent *(If none, so state)*
None

8b. Address:

8c. Tel. No.	8d. Cell No.	8e. Fax No.	8f. E-Mail Address

8g. Affiliation, if any:	8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any *(Month, Day, Year)*

9. Is there now a strike or picketing at the Employer's establishment(s) involved? No If so, approximately how many employees are participating? _____
(Name of Labor Organization) _____, has picketed the Employer since *(Month, Day, Year)* _____

10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. *(If none, so state)*
None

10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.
		10e. Fax No.	10f. E-Mail Address

11. Election Details: If the NLRB conducts and election in this matter, state your position with respect to any such election:
Please see attached.

11a. Election Type:
☐ Manual ☒ Mail ☐ Mixed Manual/Mail

11b. Election Date(s):	11c. Election Time(s):	11d. Election Location(s):

12a. Full Name of Petitioner *(including local name and number):*
New England Joint Board, UNITE HERE

12b. Address *(street and number, city, State and ZIP code):*
33 Harrison Ave., 8th Floor, Boston, MA 02111

12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent *(if none, so state):*
UNITE HERE

12d. Tel. No.	12e. Cell No.	12f. Fax No.	12g. E-Mail Address
(617) 833-6618		(617) 426-1653	wpepi@unitehere.org

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title:
Paige McKissock, Attorney

13b. Address *(street and number, city, State and ZIP code):*
Segal Roitman, LLP
33 Harrison Ave., 7th Floor, Boston, MA 02111

13c. Tel. No.	13d. Cell No.	13e. Fax No.	13f. E-Mail Address
(617) 603-1414		(617) 742-2187	pmckissock@segalroitman.com

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name *(Print)*	Signature	Title	Date
Paige McKissock	Paige McKissock	Attorney	05/04/22

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

PRIVACY ACT STATEMENT

Solicitation 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 representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (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 may cause the NLRB to decline to invoke its processes.

5b. Description of Unit Involved:

Included:

All full-time and regular part-time baristas, lead baristas, prep staff, shift runners, and all other employees employed by 1369 Coffee House at its 1369 Cambridge Street and 757 Massachusetts Avenue locations in Cambridge, Massachusetts.

Excluded:

Clerical employees, confidential employees, professional employees, guards, managers, and supervisors as defined by the National Labor Relations Act.

11. Election Details

Petitioner requests a two-week mail ballot election with ballots mailed on May 11, 2022 and counted on May 25, 2022.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

STIPULATED ELECTION AGREEMENT

1369 LLC d/b/a 1369 Coffee House **Case 01-RC-295185**

The parties **AGREE AS FOLLOWS:**

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, 1369 LLC d/b/a 1369 Coffee House, a Massachusetts corporation with facilities located at 1369 Cambridge St., Cambridge, MA 02139 and 757 Massachusetts Ave., Cambridge, MA 02139, is engaged in retail operation of restaurants. During the past twelve months, the Employer derived gross revenues in excess of $500,000, and purchased and received at its Cambridge, Massachusetts facilities goods valued in excess of $50,000 directly from points outside of the Commonwealth of Massachusetts.

3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 1, at 4:30 p.m. on June 1, 2022, Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 1 office by close of business on June 21, 2022. The mail ballots will be counted by videoconference at the Region 1 office located at 10 Causeway Street, Suite 601, Boston, MA 02222, on June 22, 2022 at 2:00 p.m.

Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be void.

To avoid the untimely return of a ballot, any eligible voter who has not received a ballot by June 8, 2022 or otherwise requires a duplicate mail ballot kit should contact the Region 01 Boston office at 617-565-6700 in order to arrange for another mail ballot kit to be sent to that employee. If the election and/or count is postponed or canceled, the Regional Director, in his or her discretion, may reschedule the date, time, and place of the election.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time baristas, lead baristas, prep staff, coffee managers and shift runners employed by the Employer at its 1369 Cambridge Street and 757

Initials: _____

Massachusetts Avenue locations in Cambridge, Massachusetts; but excluding office clerical employees and guards, professional employees and supervisors as defined in the Act.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending May 8, 2022** , including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off. In a mail ballot election, employees are eligible to vote if they are in the above unit on both the payroll period ending date and on the date they mail in their ballots to the Board's designated office.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, and, in a mail ballot election, before they mail in their ballots to the Board's designated office, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

7. THE BALLOT. The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by NEW ENGLAND JOINT BOARD UNITE HERE?" The choices on the ballot will be "Yes" or "No".

Initials: _____

8. NOTICE OF ELECTION. The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day the ballots are mailed to employees. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

9. NOTICE OF ELECTION ONSITE REPRESENTATIVE. The following individual will serve as the Employer's designated Notice of Election onsite representative:

Joshua Gerber; Owner/Manager; 617-223-1123; jwgerber@1369coffeehouse.com; 1369 Cambridge St., Cambridge, MA 02139

10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may designate an observer or observers to participate in the count, including challenging the eligibility of voters.

12. TALLY OF BALLOTS. Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

13. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

1369 LLC d/b/a 1369 Coffee House	**New England Joint Board UNITE HERE**
(Employer)	(Union)
By: /s/ Joshua Gerber 5-18-22	**By:** /s/ Paige McKissock 5-17-22
(Signature) (Date)	(Signature) (Date)

Recommended: /s/ Essie Ablavsky 5-18-22

Essie F. Ablavsky, Field Examiner (Date)

Date approved: May 18, 2022

Laura A. Sacks, Regional Director, Region 01
National Labor Relations Board

Initials: _____

Initials: _____

Form NLRB-4910
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. (See VOTING UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by secret ballot carried out through the U.S. mail under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a yellow self-addressed envelope needing no postage.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off. In a mail ballot election, employees are eligible if they are in the VOTING UNIT during both the designated payroll period and on the date they mail in their ballots. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election, or, in a mail ballot election, before the date they mail in their ballots, are not eligible to vote.

CHALLENGE OF VOTERS: An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

METHOD AND DATE OF ELECTION

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 4:30 p.m. on Wednesday, June 1, 2022, ballots will be mailed to voters from the National Labor Relations Board, Region 01, Thomas P. O'Neill Jr. Federal Building, 10 Causeway St, Room 601, Boston, MA 02222-1001. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by June 21, 2022, should communicate immediately with the National Labor Relations Board by either calling the Region 01 Office at (617)565-6700 or our national toll-free line at 1-844- 762-NLRB (1-844- 762-6572).

All ballots will be commingled and counted by videoconference at the Region 01 Office on Wednesday, June 22, 2022 at 2:00 p.m. In order to be valid and counted, the returned ballots must be received in the Region 01 Office prior to the counting of the ballots.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

Form NLRB-4910
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time baristas, lead baristas, prep staff, coffee managers and shift runners employed by the Employer at its 1369 Cambridge Street and 757 Massachusetts Avenue locations in Cambridge, Massachusetts who were employed by the Employer during the payroll period ending May 8, 2022.

EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: Office clerical employees and guards, professional employees and supervisors as defined in the Act.

Form NLRB-4910
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

UNITED STATES OF AMERICA

National Labor Relations Board

01-RC-295185

OFFICIAL SECRET BALLOT

For certain employees of

1369 LLC D/B/A 1369 COFFEE HOUSE

Do you wish to be represented for purposes of collective bargaining by

NEW ENGLAND JOINT BOARD UNITE HERE?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE

YES	NO
☐	☐

Sample

DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY. If you make markings inside, or anywhere around, more than one square, you may request a new ballot by referring to the enclosed instructions. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.

The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

Form NLRB-4910
(4-2015)

United States of America
National Labor Relations Board

NOTICE OF ELECTION

RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- **Form, join, or assist a union**
- **Choose representatives to bargain with your employer on your behalf**
- **Act together with other employees for your benefit and protection**
- **Choose not to engage in any of these protected activities**
- **In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).**

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- **Threatening loss of jobs or benefits by an Employer or a Union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time where attendance is mandatory, within the 24-hour period before the mail ballots are dispatched**
- **Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a Union or an Employer to influence their votes**

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (617)565-6700 or visit the NLRB website www.nlrb.gov for assistance.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.

FORM NLRB-4175
(5-20)

United States of America
National Labor Relations Board

Instructions to Eligible Employees Voting By United States Mail

INSTRUCTIONS

1. MARK YOUR BALLOT IN SECRET BY PLACING AN X IN THE APPROPRIATE BOX. DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.
2. IF YOU SUBMIT A BALLOT WITH MARKINGS INSIDE, OR ANYWHERE AROUND, MORE THAN ONE SQUARE, YOUR BALLOT WILL NOT BE COUNTED. YOU MAY REQUEST A NEW BALLOT BY CALLING THE REGIONAL OFFICE AT THE NUMBER BELOW.
3. IT IS IMPORTANT TO MAINTAIN THE SECRECY OF YOUR BALLOT. DO NOT SHOW YOUR BALLOT TO ANYONE AFTER YOU HAVE MARKED IT.
4. PUT YOUR BALLOT IN THE BLUE ENVELOPE AND SEAL THE ENVELOPE.
5. PUT THE BLUE ENVELOPE CONTAINING THE BALLOT INTO THE YELLOW ADDRESSED RETURN ENVELOPE.
6. SIGN THE BACK OF THE YELLOW RETURN ENVELOPE IN THE SPACE PROVIDED. TO BE COUNTED, THE YELLOW RETURN ENVELOPE MUST BE SIGNED.
7. DO NOT PERMIT ANY PARTY – THE EMPLOYER, THE UNION(S), OR THEIR REPRESENTATIVES, OR AN EMPLOYEE-PETITIONER – TO HANDLE, COLLECT, OR MAIL YOUR BALLOT.
8. MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY. For further information, call the Regional Office at: 617-565-6700 or by contacting Essie Ablavsky at Essie.Ablavsky@nlrb.gov

TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL OFFICE

BY **Tuesday, June 21, 2022**

RIGHTS OF EMPLOYEES

Under the National Labor Relations Act, employees have the right:

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for non representational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both employers and unions to know what is expected of them when it holds an election.

If agents of either unions or employers interfere with your right to a free, fair, and honest election, the election can be set aside by the Board. Where appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in the setting aside of the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes.

The National Labor Relations Board protects your right to a free choice

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law. The National Labor Relations Board as an agency of the United States Government does not endorse any choice in the election.

NATIONAL LABOR RELATIONS BOARD
an agency of the
UNITED STATES GOVERNMENT

FORM NLRB-760
(7-10)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

Date Filed
May 4, 2022

1369 LLC d/b/a 1369 Coffee House

Employer

and

New England Joint Board UNITE HERE

Petitioner

Case No. 01-RC-295185

Date Issued 06/22/2022

City Boston State MA

Type of Election:
(Check one:)

- [x] Stipulation
- [ ] Board Direction
- [ ] Consent Agreement
- [ ] RD Direction
  Incumbent Union (Code)

(If applicable check either or both:)

- [ ] 8(b) (7)
- [x] Mail Ballot

TALLY OF BALLOTS

The undersigned agent of the Regional Director certifies that the results of tabulation of ballots case in the election held in the above case, and concluded on the date indicated above, were as follows:

1. Approximate number of eligible voters 14
2. Number of Void ballots 0
3. Number of Votes cast for New England Joint Board UNITE HERE 9
4. Number of Votes cast for XXXXXXXXXX
5. Number of Votes cast for XXXXXXXXXX
6. Number of Votes cast against participating labor organization(s) 1
7. Number of Valid votes counted (sum 3, 4, 5, and 6) 10
8. Number of challenged ballots 0
9. Number of Valid votes counted plus challenged ballots (sum of 7 and 8) 10
10. Challenges are (not) sufficient in number to affect the results of the election.
11. A majority of the valid votes counted plus challenged ballots (Item 9) has (not) been cast for New England Joint Board UNITE HERE

For the Regional Director [signature]

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For 1369 LLC d/b/a 1369 Coffee House

x Joshua Gerber present via Zoom

For New England Joint Board UNITE HERE

x Beth Pease present via Zoom

For

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 1

1369 LLC d/b/a 1369 Coffee House

Employer

and **Case 01-RC-295185**

New England Joint Board UNITE HERE

Petitioner

TYPE OF ELECTION: STIPULATED

CERTIFICATION OF REPRESENTATIVE

An election has been conducted under the Board's Rules and Regulations. The Tally of Ballots shows that a collective-bargaining representative has been selected. No timely objections have been filed.

As authorized by the National Labor Relations Board, it is certified that a majority of the valid ballots has been cast for

New England Joint Board UNITE HERE

and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

Unit: All full-time and regular part-time baristas, lead baristas, prep staff, coffee managers and shift runners employed by the Employer at its 1369 Cambridge Street and 757 Massachusetts Avenue locations in Cambridge, Massachusetts; but excluding office clerical employees and guards, professional employees and supervisors as defined in the Act.

June 30, 2022

LAURA A. SACKS
Regional Director, Region 1
National Labor Relations Board

Attachments
1. Notice of Bargaining Obligation
2. Notice of Federal Mediation and Conciliation Services for Initial Contract Bargaining

cc: Federal Mediation and Conciliation Services

NOTICE OF BARGAINING OBLIGATION

In the recent representation election, a labor organization received a majority of the valid votes cast. Except in unusual circumstances, unless the results of the election are subsequently set aside in a post-election proceeding, the employer's legal obligation to refrain from unilaterally changing bargaining unit employees' terms and conditions of employment begins on the date of the election.

The employer is not precluded from changing bargaining unit employees' terms and conditions during the pendency of post-election proceedings, **as long as** the employer (a) gives sufficient notice to the labor organization concerning the proposed change(s); (b) negotiates in good faith with the labor organization, upon request; and (c) good faith bargaining between the employer and the labor organization leads to agreement or overall lawful impasse.

This is so even if the employer, or some other party, files objections to the election pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board (the Board). If the objections are later overruled and the labor organization is certified as the employees' collective-bargaining representative, the employer's obligation to refrain from making unilateral changes to bargaining unit employees' terms and conditions of employment begins on the date of the election, not on the date of the subsequent decision by the Board or court. Specifically, the Board has held that, absent exceptional circumstances,[1] an employer acts at its peril in making changes in wages, hours, or other terms and conditions of employment during the period while objections are pending and the final determination about certification of the labor organization has not yet been made.

It is important that all parties be aware of the potential liabilities if the employer unilaterally alters bargaining unit employees' terms and conditions of employment during the pendency of post-election proceedings. Thus, typically, if an employer makes post-election changes in employees' wages, hours, or other terms and conditions of employment without notice to or consultation with the labor organization that is ultimately certified as the employees' collective-bargaining representative, it violates Section 8(a)(1) and (5) of the National Labor Relations Act since such changes have the effect of undermining the labor organization's status as the statutory representative of the employees. This is so even if the changes were motivated by sound business considerations and not for the purpose of undermining the labor organization. As a remedy, the employer could be required to: 1) restore the status quo ante; 2) bargain, upon request, with the labor organization with respect to these changes; and 3) compensate employees, with interest, for monetary losses resulting from the unilateral implementation of these changes, until the employer bargains in good faith with the labor organization, upon request, or bargains to overall lawful impasse.

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[1] Exceptions may include the presence of a longstanding past practice, discrete event, or exigent economic circumstance requiring an immediate response.

NOTICE OF FEDERAL MEDIATION AND CONCILIATION SERVICES FOR INITIAL CONTRACT BARGAINING

As a workplace where employees are now represented by a union, both the employer and union have a number of obligations under the law, including the duty to bargain in good faith. These duties can have a practical impact on the bargaining process, as well as the ongoing labor-management relationship at a worksite.

As you navigate this set of obligations and their resulting impacts, we encourage you to take advantage of the following resources from the Federal Mediation and Conciliation Service (FMCS) (www.fmcs.gov). FMCS is a non-regulatory, independent federal agency, separate from the National Labor Relations Board (NLRB), whose mission is to preserve and promote labor-management peace and cooperation. FMCS services include:

- Skills development training for collective-bargaining negotiation, committee effectiveness, and conflict resolution (available at https://www.fmcs.gov/services/education-and-outreach/skills-development-training/);
- Education on contract administration (available at https://www.fmcs.gov/services/building-labor-management-relationships/); and
- Mediation, if you need additional assistance and support with your initial contract negotiations (available at https://www.fmcs.gov/services/resolving-labor-management-disputes/collective-bargaining-mediation/).

FMCS is a Congressionally funded agency offering support to both unions and employers at workplaces and these FMCS services and resources are provided **at no cost**. FMCS services are customized to the specific needs of employer and union leadership groups and FMCS is available to assist with next steps and/or answer questions that come up throughout an initial collective-bargaining agreement negotiation process, as well as for future stages of a labor-management relationship.

For more information on the full range of FMCS services and how these services can be helpful throughout various stages of the collective bargaining process, see OM 22-08. To discuss the specific needs of your group, please reach out to FMCS via email at initialcontract@fmcs.gov or by phone at (202) 606-8100.