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February 7, 2023

10911-32001

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VIA E-MAIL

William Cowen
Regional Director
National Labor Relations Board, Region 21
312 N. Spring St., 10th Floor
Los Angeles, CA 90012

Re: Unfair Labor Practice Charge Filed by UNITE HERE Local 11 against Pitzer College and Bon Appetit Management Company

Dear Regional Director Cowen:

Please find attached a new unfair labor practice (“ULP”) charge filed today by the Union against Pitzer College (“Pitzer”) and Bon Appetit Management Company (“Bon Appetit”) (collectively, the “Employers”). This charge alleges that the Employers have unlawfully discriminated against—and eventually terminated or constructively discharged—two employees, Alexis Ongpin and Stephanie Smith, for engaging in Union and other activity protected by the National Labor Relations Act (the “Act”). In addition, the Employers have committed other grave violations of Section 8(a)(1) of the Act during the lead-up to a Union election and/or during the course of first contract bargaining. This follows closely on the heels of the two ULP charges previously filed by the Union in Case Nos. 21-CA-306747 and 21-CA-310476, alleging that the Employers coercively interrogated an employee about their Union support, dissuaded employees from exercising their rights by telling them they could not participate in the Union, and discriminated against employee Kevin Ayala by terminating his position and depriving him of previously approved sick pay in retaliation for engaging in Union and other protected concerted activity—in other words, previous allegations addressing the exact same conduct forming the basis of the current charge.

Specifically, along with the unlawful termination and other discriminatory actions, the current charge alleges that the Employers have again coerced and intimidated employees engaged in protected activity by holding a captive audience meeting where managers spread the misleading message that Bon Appetit workers have no right to participate in Union activity; by directly instructing employees to refrain from wearing Union insignia in the workplace; by coercively interrogating employees about their Union sentiments; and by creating the impression of

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unlawful surveillance. None of these allegations can be disentangled from each other, and they must all be treated as part and parcel of the Employers' rampant anti-union campaign aimed at driving support away from the Union. This anti-union campaign began when Dining Services employees at Pitzer first began to organize with the Union in early 2022, and despite the fact that Pitzer entered into a neutrality and card check agreement with the Union, the Employers' violations have continued and have in fact intensified since the Union was certified in December 2022. One example of the Employers' persistent efforts to weaken the Union is the fact that more and more employees are being hired through Bon Appetit, and the Employers are taking the position that these employees do not fall within the unit. Unit employees only began to be hired through Bon Appetit after Pitzer learned of organizing efforts, and today nearly 40% of Dining Services staff at Pitzer are subcontracted through Bon Appetit. Although it is clear that these employees are actually jointly employed by Pitzer and Bon Appetit and are therefore within the bargaining unit—a position the Union continues to advance at the bargaining table—this increase in alleged non-unit workers is a clear ploy to further deprive them of rights under the Act.

As not even having the unit certified has abated the Employers' unlawful actions, the instant charge makes alarmingly clear that the Employers' coercive conduct will continue to sharpen into retaliatory actions against employees who engage in any kind of protected activity. The Employers have not only created more onerous working conditions and constructively discharged employees for protected activity like voting in the Union election or wearing Union pins, but they have also gone as far as to place some of these employees on a Bon Appetit-wide do-not-hire list that eliminates their ability to work on *any* of the campuses surrounding Pitzer *while putting out a new job posting to fill that position*. There is no question that this is all an attempt to reshape the unit in a way to undermine Union support. Such blatant discrimination against employees engaged in protected activity strikes at the very core of the rights that the Act is designed to safeguard and cannot be tolerated.

In recognition of the egregious nature of the Employers' violations of the Act and the irreparable harm that will result if these violations are not expeditiously rectified, we ask Region 21 to seek immediate injunctive relief under Section 10(j) of the Act and pursue a court order immediately reinstating all of the terminated employees and ordering all other appropriate remedies. Further, the continuing and serious nature of the violations makes it proper for the Region to seek the full panoply of remedies that Section 10(c) of the Act has granted to the National Labor Relations Board (the "Board"). This includes a requirement that a Notice to Employees and Explanation of Rights be read aloud by a Board Agent to all Dining Services employees during working hours while in the presence of the College President, the Dining Services General Manager, or their successors; that a video recording of this public reading be sent to all employees via email by the Office of the President and posted publicly to the Employers' website; that a copy of the Notice be distributed to all current and new supervisors; and that all employees, including supervisors and managers, be trained on employees' rights under the Act. To counter the chilling effect of the Employers' captive audience meeting, the remedy should provide for an apology from the Employers and for Union access to employees during non-work time in non-work areas to ensure

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Regional Director William Cowen

February 7, 2023

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that the Union has a full opportunity to address employees. And, in recognition of the General Counsel's directive to seek full remedies for victims of unfair labor practices and the Board's recent decision in *Thryv, Inc.*, 372 NLRB No. 22 (Dec. 13, 2022), the Region should seek an expansive make-whole remedy for all impacted employees, including compensation for all direct and foreseeable pecuniary harms, as necessary to effectuate the purposes of the Act. These remedies should be set forth on the face of the complaint that issues and/or included in any formal settlement that the Region offers to the Employers.

We will address these allegations and remedies further in a forthcoming statement of position for these charges. We are also attaching for your convenience the Third Amended Charge filed by the Union in Case 21-CA-306747 and the Charge filed by the Union in Case 21-CA-310476 regarding the unlawful termination of Kevin Ayala.

Please let me know if you have any questions or would like to discuss. Likewise, the Board Agent assigned to the case can contact the undersigned to arrange for presentation of evidence.

Very truly yours,

Bush Gottlieb
A Law Corporation

A handwritten signature in blue ink, appearing to read "Julie Gutman Dickinson".

Julie Gutman Dickinson
Hector De Haro
Samantha Keng

Attachments

Unfair Labor Practice Charge
Third Amended Unfair Labor Practice Charge in Case 21-CA-306747
Unfair Labor Practice Charge in Case 21-CA-310476

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

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 Pitzer College and Bon Appetit Management Company, as Joint Employers	b. Tel. No. See attachment
	c. Cell No.
	f. Fax No.
d. Address (<i>Street, city, state, and ZIP code</i>) See attachment	e. Employer Representative See attachment
	g. e-mail See attachment
	h. Number of workers employed approx. 54
i. Type of Establishment (<i>factory, mine, wholesaler, etc.</i>) University	j. Identify principal product or service Education, Dining and Facilities Services
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) (3) 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 (<i>set forth a clear and concise statement of the facts constituting the alleged unfair labor practices</i>) See attachment	
3. Full name of party filing charge (<i>if labor organization, give full name, including local name and number</i>) UNITE HERE Local 11	
4a. Address (<i>Street and number, city, state, and ZIP code</i>) 464 South Lucas Ave, Suite 201 Los Angeles, CA 90017	4b. Tel. No. 213-481-8530 x233
	4c. Cell No.
	4d. Fax No. 213-481-0352
	4e. e-mail jblasi@unitehere11.org
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (<i>to be filled in when charge is filed by a labor organization</i>) UNITE HERE	
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.	
<u>/s/ Julie Gutman Dickinson</u> <i>(signature of representative or person making charge)</i> Bush Gottlieb, ALC 801 N Brand Blvd., Suite, 950, Glendale, CA 91203 Address _____	Julie Gutman Dickinson, Attorney <i>(Print/type name and title or office, if any)</i> Tel. No. 818-973-3228 Office, if any, Cell No. Fax No. 818-973-3201 e-mail jgd@bushgottlieb.com
	Date <u>2/07/2023</u>

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.

Attachment to Unfair Labor Practice Charge Against Employer

Filed by: UNITE HERE Local 11

Filed against: Pitzer College and Bon Appetit Management Company, as Joint Employers

Filed on: February 7, 2023

1.b. Employer Telephone Number

Pitzer: (909) 621-8254

Bon Appetit: (877) 311-4747 and (650) 798-8000

1.d. Employer Address

Pitzer College
1050 North Mills Avenue
Claremont, California 91711

Bon Appetit Management Company
201 Redwood Shores Parkway
Suite #100
Redwood Shores, CA 94065

1.e. Employer Representative

Pitzer: Deanna Caballero

Bon Appetit: Rob Williams and Michael Venckus

1.g. Employer Email

Pitzer: Deanna.Caballero@pitzer.edu

Bon Appetit: Robert.Williams2@compass-usa.com and Michael.Venckus@bamco.com

2. Basis of the Charge

1. Within the past six months, the above-named Employers, through their agents have violated Section 8(a)(1) of the Act by, *inter alia*:
 - a. Forcing employees to listen to anti-union messages at a mandatory meeting during work time;
 - b. Telling employees that they did not have a right to engage in Union activity;

- c. Coercing employees to abandon their support for the Union by telling them the Union “is none of your business;”
 - d. Instructing employees to refrain from wearing Union insignia at the workplace;
 - e. Unlawfully and coercively interrogating employees regarding their Union sentiments and/or their support for the Union; and
 - f. Unlawfully creating the impression that they were surveilling employees’ exercise of their Section 7 rights.
2. In addition, the Employers, through their agents, have violated Sections 8(a)(1) and (3) of the Act by, *inter alia*:
- a. Discriminating against employee Alexis Ongpin by depriving her of work in retaliation for engaging in Union and other protected concerted activity;
 - b. Discriminating against employee Alexis Ongpin by constructively discharging her in retaliation for engaging in Union and other protected concerted activity;
 - c. Discriminating against employee Alexis Ongpin by depriving her of sick pay in retaliation for engaging in Union and other protected concerted activity;
 - d. Discriminating against employee Alexis Ongpin by changing her job duties and work schedule in retaliation for engaging in Union and other protected concerted activity;
 - e. Discriminating against employee Alexis Ongpin by placing her on a do-no-hire list for Bon Appetit in retaliation for engaging in Union and other protected concerted activity;
 - f. Discriminating against employee Stephanie Smith by changing her job duties and assigning her more onerous tasks in retaliation for engaging in Union and other protected concerted activity;
 - g. Discriminating against employee Stephanie Smith by depriving her of previously promised vacation pay in retaliation for engaging in Union and other protected concerted activity;
 - h. Discriminating against employee Stephanie Smith by depriving her of work in retaliation for engaging in Union and other protected concerted activity; and
 - i. Discriminating against employee Stephanie Smith by terminating her in retaliation for engaging in Union and other protected concerted activity.

Due to the Employers' repeated egregious violations of the Act and the irreparable harm that employees will suffer absent swift intervention, the Union requests that the Region seek immediate relief under Section 10(j) of the Act.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

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 Pitzer College and Bon Appetit Management Company, as Joint Employers	b. Tel. No. See Attachment
	c. Cell No.
d. Address (Street, city, state, and ZIP code) See Attachment	f. Fax No.
	g. e-mail See Attachment
e. Employer Representative See Attachment	h. Number of workers employed Approx. 54
i. Type of Establishment (factory, mine, wholesaler, etc.) University	j. Identify principal product or service Education, Dining and Facilities services
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) (3) 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) UNITE HERE Local 11	
4a. Address (Street and number, city, state, and ZIP code) 464 S. Lucas Ave., Suite 201 Los Angeles, CA 90017	4b. Tel. No. (213) 481-8530 x 233
	4c. Cell No.
	4d. Fax No. (213) 481-0352
	4e. e-mail jblasi@unitehere11.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) UNITE HERE	
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.	
/s/ Julie Gutman Dickinson <i>(signature of representative or person making charge)</i>	Julie Gutman Dickinson, Attorney <i>(Print/type name and title or office, if any)</i>
Bush Gottlieb, A Law Corporation 801 N. Brand Blvd., Suite 950 Glendale, CA 91203 Address _____	1/17/2023 Date _____
	Tel. No. (818) 973-3228
	Office, if any, Cell No.
	Fax No. (818) 973-3201
	e-mail jgd@bushgottlieb.com

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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**Attachment to Charge Against Pitzer College and Bon Appetit Management Company, as
Joint Employers, by UNITE HERE Local 11
Filed January 17, 2023**

1.b. Employer Telephone Number

Pitzer College: (909) 621-8254

Bon Appetit: (877) 311-4747 and (650) 798-8000

1.d. Employer Address

Pitzer College
1050 N. Mills Ave.
Claremont, CA 91711

Bon Appetit Management Company
201 Redwood Shores Parkway, Suite 100
Redwood Shores, CA 94065

1.e. Employer Representative

Pitzer College: Deanna Caballero

Bon Appetit Management Company: Rob Williams and Michael Venckus

1.g. Employer Email

Pitzer College: deanna_caballero@pitzer.edu

Bon Appetit Management Company: robert.williams2@compass-usa.com and
michael.venckus@bamco.com

2. Basis of the Charge

Within the past six months, the above-named Employers, through their agents, have violated Sections 8(a)(1) and (3) of the Act by, inter alia, terminating employee Kevin Ayala in retaliation for engaging in Union and other protected concerted activity. This allegation is closely related to the previously filed and currently pending allegations in Case No. 21-CA-306747.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER
Third Amended Charge

DO NOT WRITE IN THIS SPACE	
Case 21-CA-306747	Date Filed

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 Pitzer College and Bon Appetit Management Company, as Joint Employers		b. Tel. No. see attachment
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) See attachment	e. Employer Representative See attachment	g. e-mail see attachment
		h. Number of workers employed appx 54
i. Type of Establishment (factory, mine, wholesaler, etc.) University	j. Identify principal product or service Education, Dining and Facilities Services	

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) (3) 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)

UNITE HERE Local 11

4a. Address (Street and number, city, state, and ZIP code) 464 South Lucas Ave, Suite 201 Los Angeles, CA 90017	4b. Tel. No. 213-481-8530 x233
	4c. Cell No.
	4d. Fax No. 213-481-0352
	4e. e-mail jblasi@unitehere11.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)

UNITE HERE

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.

/s/ Julie Gutman Dickinson

Julie Gutman Dickinson, Attorney

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Bush Gottlieb, ALC

801 N Brand Blvd., Suite, 950, Glendale, CA 91203

Address

Date 02/01/2023

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818-973-3201

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jgd@bushgottlieb.com

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**Attachment to Third Amended Charge Against Employer. Case No. 21-CA-306747
Against Pitzer College and Bon Appetit Management Company, as Joint Employers
By UNITE HERE Local 11, February 1, 2023**

1.b. Employer Telephone Number

Pitzer: 909 621 8254

Bon Appetit: 877 311 4747 and 650 798 8000

1.d. Employer Address

Pitzer College
1050 North Mills Avenue
Claremont, California 91711

Bon Appetit Management Company
201 Redwood Shores Parkway
Suite #100
Redwood Shores, CA 94065

1.e. Employer Representative

Pitzer: Deanna Caballero

Bon Appetit: Rob Williams and Michael Venckus

1.g. Employer Email

Pitzer: deanna_caballero@pitzer.edu

Bon Appetit: Robert.Williams2@compass-usa.com and Michael.Venckus@bamco.com

2. Basis of the Charge

1. Within the past six months, the above-named Employers, through their agents, have violated Section 8(a)(1) of the Act by, inter alia:
 - a. Coercing and dissuading employees without supervisory duties from voting in the decertification election;
 - b. Telling a non-supervisory employee that he did not have a right to engage in Union activity; and

- c. Unlawfully and coercively interrogating a unit employee regarding his Union sentiments and/or his support for the Union.
2. In addition, the Employers, through their agents, have violated Sections 8(a)(1) and (3) of the Act by, inter alia:
 - a. Discriminating against employee Kevin Ayala by depriving him of work in retaliation for engaging in Union and other protected concerted activity; and
 - b. Discriminating against employee Kevin Ayala by denying him previously approved sick time in retaliation for engaging in Union and other protected concerted activity.