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Trader Joe's East Inc. *and* Trader Joe's United. Case 13–CA–394913

November 19, 2026

DECISION AND ORDER

BY CHAIRMAN MURPHY AND MEMBERS PROUTY AND MAYER

This is a refusal-to-bargain case in which Trader Joe's East Inc. (the Respondent) is contesting the Union's certification as bargaining representative in the underlying representation proceeding. Pursuant to a charge filed on September 15, 2026,[1] by Trader Joe's United (the Union), the General Counsel issued a complaint on September 30, 2026, alleging that the Respondent has violated Section 8(a)(5) and (1) of the Act by failing and refusing to recognize and bargain with the Union following the Union's certification in Case 13–RC–339478. (Official notice is taken of the record in the representation proceeding as defined in the Board's Rules and Regulations, Sections 102.68 and 102.69(d). *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint and asserting affirmative defenses.

On October 15, 2026, the General Counsel filed a Motion for Summary Judgment. On October 20, 2026, the Board issued an Order Transferring the Proceeding to the Board and a Notice to Show Cause why the motion should not be granted. On November 3, 2026, the Respondent filed a Response to the Board's Notice to Show Cause. Neither the General Counsel nor the Union filed a reply.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

The Respondent admits its refusal to bargain but contests the validity of the certification based on its contentions, raised and rejected in the representation proceeding, that the Union, through its agents, and/or third parties, engaged in objectionable misconduct, and that it was denied a fair hearing as a result of flawed rulings on subpoena issues.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding.[2] The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor has it established any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941).

Accordingly, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a Massachusetts corporation with a place of business in Chicago, Illinois, the Respondent's facility, has been engaged in the business of operating retail grocery stores.

In conducting its operations during the twelve months preceding the complaint, a representative period, the Respondent has derived gross revenues in excess of

[1] In its answer to the complaint, the Respondent denies knowledge and information as to the date the charge was filed and served by regular mail but admits that it received a copy of the charge on or about September 16, 2026.

[2] In its answer (pars. 4(b)-(c), 5(b), affirmative defenses 2–5) and in its response to the Board's Notice to Show Cause, the Respondent denies the certification is valid and raises two objections to the certification. First, it denies that the Union's certification was appropriate or legal, contending that the election results were tainted and invalidated by objectionable conduct attributable to the Union, its agents, or third parties. Second, it contends that it was denied a fair hearing as a result of flawed rulings on subpoena issues in the representation case. Neither contention precludes summary judgment because these issues were fully litigated and resolved in the underlying representation proceeding.

Equally unavailing are the Respondent's first affirmative defense that the complaint fails to state a claim upon which relief can be granted and the Respondent's denials that it is obligated to recognize and bargain with the Union, that it violated Sec. 8(a)(5) and (1) of the Act by its failure and refusal to bargain with the Union, and that its unfair labor practices affect commerce within the meaning of Sec. 2(6) and (7) of the Act (pars. 5(a), 6, affirmative defense 3). The Respondent has admitted that it refused the Union's request to bargain (par. 5(c)). This admission is sufficient to establish a violation of the Act, *Randalls Food & Drug, L.P.*, 369 NLRB No. 100, slip op. at 1 fn. 1 (2020), and establishes that "the complaint does indeed state claims upon which relief can be granted," *Wolf Creek Nuclear Operating Corp.*, 366 NLRB No. 30, slip op. at 1 fn. 2 (2018), enfd. 762 F. App'x 461 (10th Cir. 2019).

Finally, we reject the Respondent's cursory claims that no remedy is appropriate because the Respondent has not engaged in any unfair labor practice and that the requested remedies are punitive, inappropriate, nonremedial, and beyond the scope of the Board's Section 10(c) authority (affirmative defense 6). The Respondent has not offered any explanation or evidence to support these bare assertions. Thus, we find that they are insufficient to warrant denial of the General Counsel's Motion for Summary Judgment. See, e.g., *Sysco Central California, Inc.*, 371 NLRB No. 95, slip op. at 1 fn. 1 (2022); *Station GVR Acquisition, LLC d/b/a Green Valley Ranch Resort Spa Casino*, 366 NLRB No. 58, slip op. at 1 fn. 1 (2018) (citing cases), enfd. sub nom. *Operating Engineers Local 501 v. NLRB*, 949 F.3d 477 (9th Cir. 2020).

$500,000. During that time, the Respondent has purchased and received goods, products, materials, and services at its stores in Chicago, Illinois from enterprises that received goods, products, materials, and services valued in excess of $5000 that are produced and distributed from locations outside of the State of Illinois.[3]

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. We further find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Certification

Following an election conducted by secret ballot on April 29, 2024, the Regional Director issued a Decision on Determinative Challenged Ballot and Objections in Case 13–RC–339478 on February 18, 2025. After the Board denied the Respondent's request for review of that decision, the Region opened and counted the challenged ballot and determined that a majority of the votes had been cast for the Union. Accordingly, on July 16, 2026, the Regional Director issued a Certification of Representative, certifying the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

> Included: All full-time and regular part-time Crew Members and Merchants employed by the Employer at its facility, currently located at 3745 N. Lincoln Avenue, Chicago, IL.
>
> Excluded: All mates, captains, office clerical employees, confidential employees, managerial employees, professional employees, guards and supervisors as defined by the Act.

The Union continues to be the exclusive collective-bargaining representative of the unit employees under Section 9(a) of the Act.

B. Refusal To Bargain

On about July 25, 2026, the Union, by email, requested that the Respondent recognize and bargain collectively with the Union as the exclusive collective-bargaining representative of the unit. Since about July 29, 2026, and continuing to date, the Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit.

We find that the Respondent's conduct constitutes an unlawful failure and refusal to recognize and bargain with the Union in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By failing and refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of the employees in the appropriate unit since about July 29, 2026, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning on the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); accord *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965); *Lamar Hotel*, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964).[4]

ORDER

The National Labor Relations Board orders that the Respondent Trader Joe's East Inc., Chicago, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain with Trader Joe's United (the Union) as the exclusive collect-

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[3] For ease, we adopt the recitation of the commerce facts, found in the Respondent's answer, despite the focus on indirect, rather than direct, inflow. The distinction between the complaint and answer is immaterial because the Respondent admits it is an employer engaged in commerce.

[4] For the reasons stated in his dissent in *Longmont United Hospital*, 374 NLRB No. 52 (2026), in order to effectuate Sec. 10(c) of the Act, Member Prouty believes that additional remedies are required to remedy the harm caused by an employer's unlawful refusal to bargain with its employees' chosen union in a test of certification case. To address the damage created by the unlawful delay in initiating bargaining, Member Prouty would also order the Respondent to make the union and affected employees whole for any provable, reasonably quantifiable economic harm resulting from the unlawful refusal to bargain; provide the union on-site access to the bargaining unit; adhere to a bargaining schedule; post a notice of employee rights for a period of one year; and read and distribute a remedial notice to employees. See *Longmont*, supra, slip op. at 2–5; see also *CP Anchorage Hotel 2 d/b/a Hilton Anchorage*, 371 NLRB No. 151 (2022) (Member Prouty, concurring) (setting forth his view that notice reading and distribution should be standard for all unfair labor practices found by the Board), enfd. 98 F.4th 314 (D.C. Cir. 2024). Member Prouty believes that these remedies are necessary where, as here, employees have been deprived of the benefit of their chosen representative because of the Respondent's unlawful refusal to bargain.

ive-bargaining representative of the employees in the bargaining unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

> Included: All full-time and regular part-time Crew Members and Merchants employed by the Employer at its facility, currently located at 3745 N. Lincoln Avenue, Chicago, IL.
>
> Excluded: All mates, captains, office clerical employees, confidential employees, managerial employees, professional employees, guards and supervisors as defined by the Act.

(b) Within 14 days of service by the Region, post at its facility in Chicago, Illinois copies of the attached notice marked "Appendix."[5] Copies of the notice, on forms provided by the Regional Director for Region 13, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 29, 2026.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 13 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. November 19, 2026

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James R. Murphy, Chairman

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David M. Prouty, Member

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Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to recognize and bargain with Trader Joe's United (the Union) as the exclusive collective-bargaining representative of our employees in the bargaining unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the following appropriate bargaining unit:

[5] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Included: All full-time and regular part-time Crew Members and Merchants employed by the Employer at its facility, currently located at 3745 N. Lincoln Avenue, Chicago, IL.

Excluded: All mates, captains, office clerical employees, confidential employees, managerial employees, professional employees, guards and supervisors as defined by the Act.

TRADER JOE'S EAST INC.

The Board's decision can be found at www.nlrb.gov/case/ 13-CA-394913 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.