



GOLDEN VENEER

**How McDonald's Empty
CSR Promises Failed
Workers at Taylor Farms**



1634 I ST NW #1001
WASHINGTON, DC 20006
USA

T: +1 202 347 4100
LABORRIGHTS@ILRF.ORG
WWW.LABORRIGHTS.ORG

INTERNATIONAL LABOR RIGHTS FORUM (ILRF)

The International Labor Rights Forum (ILRF) is a human rights advocacy organization dedicated to achieving dignity and justice for workers worldwide. Founded in 1986 and based in Washington D.C., ILRF works with trade unions and community-based labor rights advocates to expose violations of workers' rights, including child and forced labor, discrimination, and violations of workers' rights to organize and bargain collectively. Our field research helps to build and promote worker-driven organizations and solutions. We develop, propose, test, and assess government and corporate policies to ensure that global trade, procurement, and development practices support workers' rights.

Acknowledgements: Abby McGill, ILRF director of campaigns, is the principal author of this report. Thanks to ILRF staff Matt Fischer-Daly, Björn Claeson, Judy Gearhart and Eric Gottwald for their contributions editing and proofreading.

ILRF contracted Sarah Adler-Milstein to conduct the field research, and she contributed significantly to writing and editing. Sarah is a workers rights researcher and advocate, who previously served as the Worker Rights Consortium's Director for Latin America and the Caribbean.

Images:

- Cover and inside title page photos Creative Commons licensed materials
- Lettuce icon by Yi Chen from the Noun Project
- Fliers and letters were collected in the course of ILRF's field work at Taylor Farms
- All other images, unless indicated otherwise, were provided by Teamsters Local 601.



GOLDEN VENEER

Foreword

Dear Friends,

Whether you love fast food or hate it, you have to admit McDonald's is one of America's leading, most recognized global brands. They've been around forever and yet they've managed to continuously update their image and redesign their menus to keep pace with the times.

So it's not surprising that McDonald's has a pretty rigorous supplier code of conduct and a Global Compliance Office to oversee social issues that arise in their global supply chain. When workers asked McDonald's to help address multiple cases of intimidation and sexual harassment at their supplier, Taylor Farms, however, McDonald's response took workers by surprise.

McDonald's was a large buyer of Taylor Farms produce at the time and within a few months they sent representatives from a corporate social responsibility firm called Arche Advisors – a firm that promotes its expertise in stakeholder engagement – to look into the situation. Unfortunately, the only “report” workers received after the Arche Advisors' visit was when McDonald's pulled out of Taylor Farms four months after their visit, leaving hundreds out of work just before the holidays.

Although we have seen brands cut and run when trouble arises at a supplier before, the swiftness of McDonald's action was destructive and the lack of transparency from Arche Advisors meant management was able to use McDonald's review in its campaign against the union. Ironically, McDonald's CSR programs actually undermined the same rights they were meant to protect.

As a competitive company, we urge McDonald's to correct for the flaws in their system and to cut a new path in corporate accountability towards programs based on binding standards, transparent reporting, and engagement with trade unions to ensure workers' rights are protected throughout their supply chain. We stand ready to engage in that redesign, but first we need McDonald's to come back to the table to stand up for the workers' whose rights were violated at Taylor Farms.

Please join us in asking McDonald's to come back to the table and help us move this global giant into the 21st century of corporate accountability.

Sincerely,

Judy Gearhart
Executive Director, ILRF





GOLDEN VENEER

Executive Summary

Multiple reports have documented the failures of voluntary corporate social responsibility (CSR) codes in global supply chains, but less attention has been paid to how they have been implemented in the United States. This report is a case study of how McDonald's Corporation implemented its Supplier Code of Conduct when it was alerted to violations of workers' rights to freedom of association at one of its suppliers, Taylor Fresh Foods, commonly known as Taylor Farms. The report documents systematic and serious violations of workers' fundamental rights protected under international labor standards and McDonald's own Supplier Code of Conduct to freely associate and bargain collectively at Taylor Farms. Further, it finds that McDonald's approach not only failed to prevent or remediate grave violations of workers' rights, it helped undermine workers' free exercise of their rights.

Taylor Farms is a top supplier of salads and value-added fresh produce to the food industry, and has a large number of retail products that include pre-packaged salads and fresh-cut fruits and vegetables. On its website, the company states, "our success would not be possible without our dedicated team and we are grateful to have each one as part of our Taylor Farms Family."

An investigation conducted by the International Labor Rights Forum (ILRF) in January of 2015, including review of documentary evidence and interviews with current and former workers, tells a dramatically different story. ILRF's investigation uncovered systematic violations of workers' associational rights at two Taylor Farms' facilities in Tracy, Calif., that employ 900 workers. Workers reported that they attempted to form a union to address a pattern of abusive treatment, sexual harassment, unsafe

working conditions and low pay, among other issues. ILRF's investigation found evidence that Taylor Farms management violated workers associational rights by using violent intimidation, surveillance and harassment. It also documented discriminatory firings and suspensions, disciplinary actions and reductions in hours in retaliation against workers identified as being active in union organizing efforts. Workers from these facilities have filed 89 unfair labor practices (ULP) complaints with the National Labor Relations Board (NLRB) alleging Taylor Farms violated the law. Due to the high volume of serious unfair labor practice allegations, the NLRB impounded ballots from a union election on March 27 and 28, 2014. At the time of the writing of this report, the NLRB had still not made a determination regarding the impounded ballots, and 33 ULP complaints remained open for consideration before the NLRB.

McDonald's Corporation was a large purchaser of produce from Taylor Farms' facilities in Tracy during the time many of these violations took place. McDonald's Supplier Code of Conduct prohibits the violations of workers' rights ILRF documented at Taylor Farms. Yet, ILRF found significant evidence that McDonald's not only failed to use its leverage with Taylor Farms to prevent violations of its Supplier Code of Conduct, but that it subsequently took actions that caused further damage to workers, rather than remedying the violations of workers' rights. A Taylor Farms employee contacted McDonald's regarding allegations of worker intimidation and sexual harassment in April 2014, calling the phone number listed in McDonald's Supplier Code of Conduct to reach the Global Compliance Office. The call triggered an audit process, as required in the Code of Conduct. McDonald's contracted with the for-

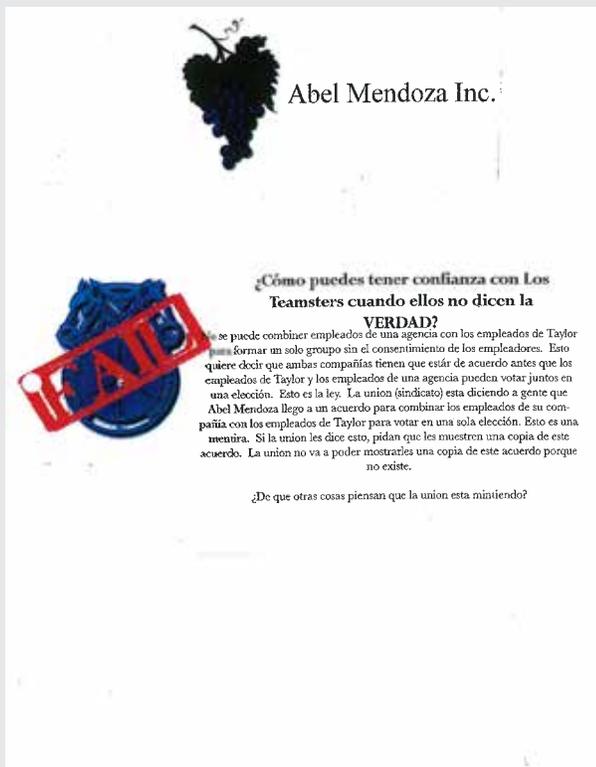
ILRF FOUND EVIDENCE OF SERIOUS VIOLATIONS OF FREEDOM OF ASSOCIATION AT TAYLOR FARMS. IN IMPLEMENTING ITS CODE OF CONDUCT, MCDONALD'S NOT ONLY FAILED TO IMPROVE THE SITUATION, IT BOLSTERED TAYLOR FARM'S ANTI-UNION CAMPAIGN.

profit CSR firm Arche Advisors to conduct the audit, and an auditor from Arche Advisors visited Taylor Farms on behalf of McDonald's in August 2014. Of the nearly 30 workers ILRF spoke with directly, the only one that had any contact with the auditor was the worker who made the original complaint. No worker observed any action by Taylor Farms to correct violations of the McDonald's Supplier Code of Conduct. Instead, McDonald's ceased some or all of its ordering from the two facilities, leading to layoffs of dozens of workers in mid-December 2014, right before the Christmas holidays.

For months prior, workers reported being systematically told in company meetings, written communications and one-on-one conversations with Taylor Farms managers that if workers continued to exercise their right to form a union, that it would

lead to jobs loss or closure. Immediately preceding McDonald's exit from the factory, flyers circulated within the facility with photos of the union saying, "thanks for taking away McDonald's." Thus, rather than aiding in correction of the violation of McDonald's Supplier Code, the audit became a tool management used to reinforce to the workforce that if they complain about legal violations or attempt to exercise their associational rights, they will face dismissal.

Whether any code of conduct is meaningful should be judged by its impact on working conditions on the ground. In this case, ILRF found evidence of serious violations of freedom of association at Taylor Farms. In implementing its Code of Conduct, McDonald's not only failed to improve the situation, it bolstered Taylor Farms' anti-union campaign.



Flyer circulated before elections

Flyers like the one at left were delivered to employees and circulated around Taylor Farms in advance of the union election, sometimes with knowledge of management. This one is on letterhead for Abel Mendoza, a third-party contractor operating at Taylor Farms, inaccurately implying that contracted workers would not be allowed to vote in the election.

Translation: How can you trust the Teamsters when they don't tell the truth? You cannot combine an agency with the Taylor workers to form one group without the employers' consent. This means both companies have to agree that Taylor workers and workers of an agency can vote together in an election. This is the law. The union is telling people that Abel Mendoza reached an agreement to combine its workers with the Taylor workers to vote in one election. This is a lie. If the union says this, ask them to show a copy of this agreement. The union is not going to be able to show you a copy of the agreement because it does not exist. On what other things is the union lying?

RECOMMENDATIONS

The violations of workers' rights documented at Taylor Farms Tracy facilities are severe and require urgent action. ILRF calls on Taylor Farms take the following steps at its Tracy facilities:

- 1) Immediately cease all interference in union organizing activities. Commit in writing to allow the Teamsters reasonable access to the Taylor Farms facilities where workers are attempting to organize. Give workers who do and do not support unionization equal access to resources to reach out to colleagues, including paid time, and stop captive audience meetings about the union.
- 2) Rehire all terminated workers who have open unfair labor practice complaints pending a decision, and end all retaliatory activities against workers who support organizing a union.
- 3) Take disciplinary steps against managers who intimidate workers.
- 4) Issue a statement to workers and managers on Taylor Farms letterhead in English and Spanish confirming that workers have the right to join a union and guaranteeing that workers will not be intimidated or retaliated against.

In light of ongoing violations of freedom of association at Taylor Farms and the extent of McDonald's involvement, we also call on McDonald's take the following actions immediately:

- 1) Issue a statement to Taylor Farms workers and managers on McDonald's letterhead in English

and Spanish explaining the rights of workers in McDonald's supply chain to all core labor standards, including freedom of association and collective bargaining rights, in accordance with its Supplier Code of Conduct and in alignment with international labor conventions.

- 2) Begin discussions with Taylor Farms to re-establish contracts on the condition that it agrees to implement the recommendations above.
- 3) Implement a transparent, worker-driven accountability system to verify McDonald's suppliers comply with its code of conduct that includes:
 - a. Contractual clauses committing the supplier to respect core labor standards as a condition to do business with McDonald's
 - b. Worker-based monitoring, including off-site interviews with a representative sample of workers selected randomly without influence from management
 - c. A grievance remediation system that includes protection against retaliation, including anonymity for workers interviewed and whistleblowers
 - d. Audit findings that are fully available to workers and their trade unions, and that permit workers and their trade unions to appeal findings where necessary with guaranteed protection from retaliation
 - e. Regular, public reporting on compliance with national and international laws, and the McDonald's Code of Conduct, when violations are uncovered.

TABLE OF CONTENTS

3	Foreword
4	Executive Summary
9	Introduction
13	Terms of Reference
14	Methodology
16	Allegations at Taylor Farms
17	A) Background
20	B) Findings
20	1) <i>Retaliation against union supporters, including violent intimidation</i>
26	2) <i>Persistent anti-union messaging with threats of adverse consequences from unionization</i>
29	3) <i>Anti-union coercion, including pressure to join anti-union demonstrations</i>
33	McDonald's Involvement
34	A) Background
37	B) Findings
41	Recommendations

A wooden cutting board with sliced vegetables: lettuce, tomato, and onion, and a knife. The board is light-colored wood with a vertical grain. On the left, there are several large, overlapping slices of green and white lettuce. In the center, there are three thick slices of red tomato, showing the seeds. On the right, there are several thin slices of red onion, showing the concentric rings. A silver knife with a wooden handle is positioned diagonally across the top right of the board. The word "INTRODUCTION" is written in large, bold, black capital letters across the middle of the image, overlaid on a semi-transparent white horizontal band.

INTRODUCTION



GOLDEN VENEER

Introduction

“I feel persecuted by the managers and harassed... Before the [union] election, I was never given a warning, but then suddenly there was a radical change after I started wearing the Teamsters t-shirt.”

--Pro-union Taylor Farms worker

“I’ve struggled. It has become very, very hard to pay for my son’s studies and I don’t have enough money for gas. We had no presents at Christmas for the first time this year.”

-- Taylor Farms worker who lost her job after her facility lost the McDonald’s contract

“What McDonald’s should do is go all in and really transform itself, because the effect of positive change would be immeasurable. Instead it tries to play it both ways, controlling what franchisees buy and sell but insisting that it cannot dictate how they treat employees.”

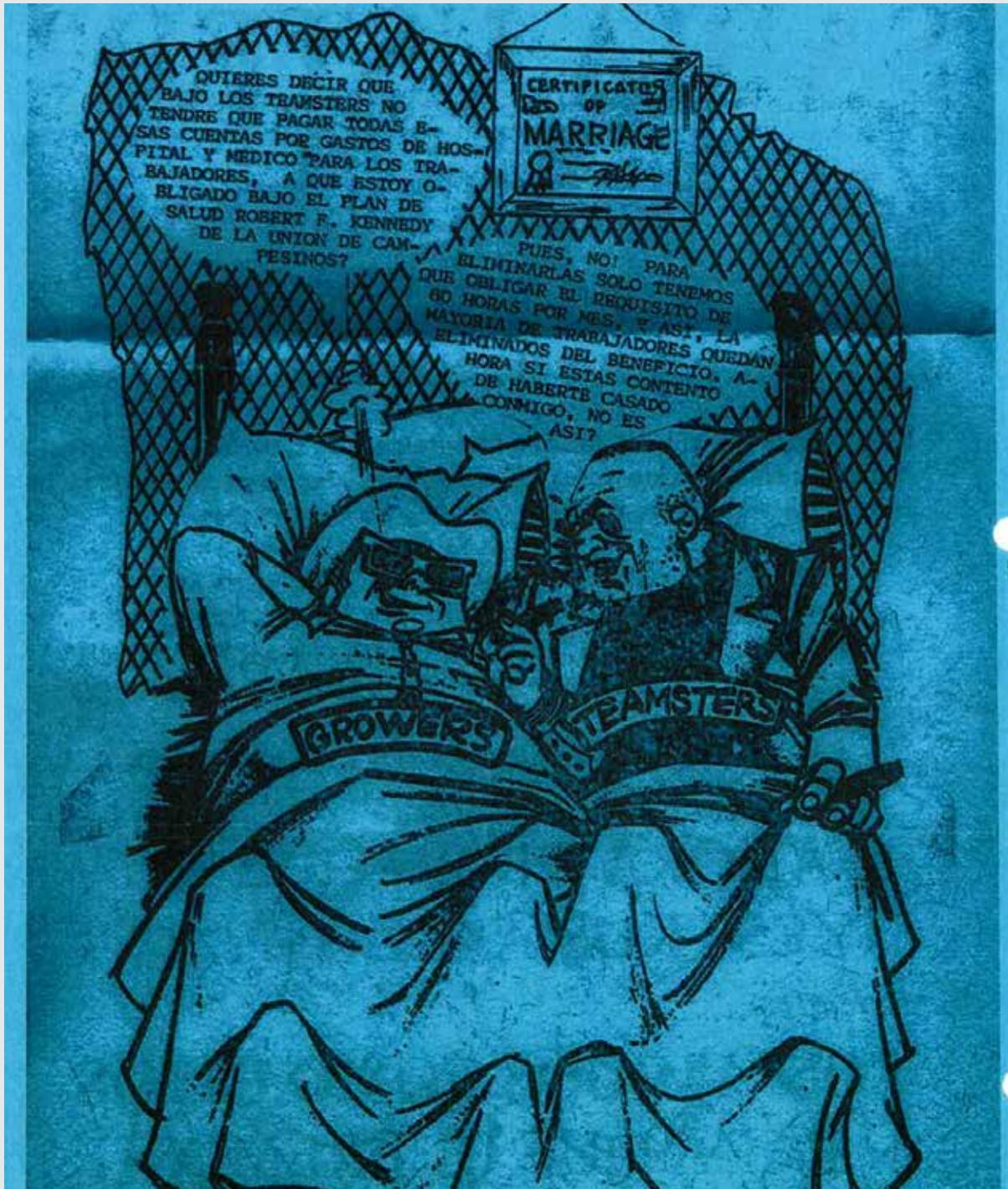
--Mark Bitman, New York Times editorial, April 8, 2015

The last three decades have seen an explosion in the number of supply chain codes of conduct and other voluntary corporate social responsibility (CSR) efforts to monitor environmental and social harms of global trade.¹ This increased scrutiny has come about because consumers have become more conscientious of those harms and aware of their power to demand higher standards. Multinational corporations that derive tens of billions of dollars from their brand names alone² can thus not afford to have those brands tarnished by endless stories of exploitation and abuse.

Voluntary CSR efforts have a poor record for success³ in cleaning up problems in supply chains because

they lack the ability to adequately enforce conditions on the ground. They are developed and implemented by companies, often with input from NGOs, but rarely with the input or involvement of the workers they purport to benefit or the legally enforceable commitments that would make them binding. Where voluntary initiatives put a spotlight on links between business practices and human rights violations, they can push willing companies to address the issues, particularly issues of health and safety and in countries that already have strong union cultures and/or enforcement of rule of law. However, where they interfere or compete with genuine worker-driven attempts to establish accountability in the workplace, voluntary initiatives can hinder workers’ access to justice.

ILRF has examined the failure of these voluntary efforts in the garment industry in South Asia, most recently in an article by Bjorn Claeson in *New Solutions*.⁴ Claeson notes that since 2005, more than 1,800 workers have died in factory fires and building collapses in facilities that have been audited and certified as compliant with voluntary corporate codes, including the Rana Plaza factory collapse in Bangladesh. Rana Plaza was the largest recorded industrial accident in history, killing 1,138 workers and injuring more than 2,500 others. Claeson attributes the failure of the \$80 billion social auditing industry to significantly improve working conditions to a combination of factors. The first is inherent conflicts of interest that arise when social auditors are paid by corporations, and the second is manipulation from factory owners desperate to compete for international contracts. He notes, “Corporations also have a strong interest in maintaining control over the cost structure and operations in their supply chain and



Playing on worker fears

This flyer demonizing the union with false threats to worker health care circulated around Taylor Farms near the time of the election.

Translation: Growers: “You mean to say that with the Teamsters we won’t have to pay all those bills for workers’ hospital and medical

expenses, which I’m obligated to pay under Robert F. Kennedy’s health plan for the rural workers union?”

Teamsters: “Well, no! To eliminate those we only have to abide by the requirement of 60 hours per month, and that way, the majority of workers remain unqualified for the benefit. Now you happy to be married to me, isn’t that right?”

RATHER THAN AIDING IN CORRECTION OF THE VIOLATION OF MCDONALD'S SUPPLIER CODE [OF CONDUCT], THE AUDIT BECAME A TOOL MANAGEMENT USED TO REINFORCE THAT IF THEY COMPLAIN OR ATTEMPT TO UNIONIZE, THEY WILL FACE DISMISSAL.

are considerably less likely to effectively monitor and remedy violations of workers' rights to organize and bargain collectively because effective implementation of those rights lessens corporate control."

While multiple reports have documented the limited success of these voluntary codes in global supply chains, less attention has been paid to how these voluntary codes of conduct have been implemented in the United States. This report is a case study of how McDonald's Corporation implemented its Supplier Code of Conduct in the United States when it was alerted to violations of workers' rights to freedom of association at one of its suppliers, Taylor Fresh Foods, commonly known as Taylor Farms.

Taylor Farms is a top supplier of salads and value-added fresh produce to the food industry,⁵ and has a large number of retail products that include pre-packaged salads and fresh-cut fruits and vegetables. It employs around 10,000 workers and has operations in 10 states and Mexico. The company's website extolls its family values and promotes it as a seller of "healthy fresh foods." It also speaks to the company's commitment to its community and workers, about whom it says, "our success would not be possible without our dedicated team and we are grateful to have each one as part of our Taylor Farms Family."

Interviews with current and former workers conducted by the International Labor Rights Forum (ILRF) in January of 2015 tell a different story, however. ILRF's investigation uncovered systematic violations of workers' associational rights at two Taylor Farms' facilities in Tracy, California, that employ 900 workers. Workers at the facility contacted the Teamsters Local 601 in response to unsafe working conditions, abusive treatment and discrimination,

and initiated an effort to form a union in 2013. (While it is beyond the scope of this report, which investigates freedom of association violations, it is relevant to note that Taylor Farms workers interviewed by ILRF said that management retaliated against them for reporting both work-related injuries and incidents of sexual harassment. There is currently an open complaint with the Occupational Health and Safety Administration (OSHA) alleging a number of unsafe working conditions.)

ILRF's investigation found evidence that Taylor Farms management violated workers associational rights by using retaliatory firings and suspensions, disciplinary actions, reductions in hours, surveillance, harassment and violent intimidation in retaliation for workers exercising their rights. Workers from these facilities have filed 87 unfair labor practices complaints against the company to the National Labor Relations Board (NLRB), which impounded ballots from a union election on March 27 and 28, 2014 due to the high volume of serious unfair labor practice allegations. At the time of the writing of this report, the NLRB had still not made a determination regarding the impounded ballots, and 33 ULP complaints remained open for consideration before the NLRB.

McDonald's Corporation was a large purchaser of produce from Taylor Farms' facilities in Tracy during the time many of these violations took place, buying grape tomatoes, sliced tomatoes, sliced lemons, sliced onion, chopped onion and lettuce. As a purchaser, McDonald's holds responsibility for labor rights violations that occur at Taylor Farms. Thus, ILRF also investigated McDonald's response to these violations. ILRF found significant evidence that McDonald's not only failed to use its leverage with Taylor Farms to prevent violations of its Supplier Code of Conduct,

but that it subsequently took actions that caused further damage to workers, rather than remedying the violation of workers' rights.

McDonald's launched a revised Supplier Code of Conduct in November 2012, after what its website describes as, "a comprehensive 2-year process that included benchmarking with a number of organizations that lead in this area, consultation with external experts in supplier workplace accountability, a human rights gap analysis and dialogue with suppliers."⁶ An ILRF analysis of the document finds that it prohibits many of the problems we found at Taylor Farms, including discrimination and unfair treatment, sexual harassment, verbal and physical harassment, and discriminatory pay, and requires suppliers to respect freedom of association, provide a safe working environment and treat workers with dignity and respect.

In addition, the Code of Conduct requires suppliers to establish grievance mechanisms that protect whistleblowers' confidentiality and prohibit retaliation. McDonald's reserves the right to audit against the standards outlined in the code, and suppliers are obligated to address and correct violations. The Code of Conduct does not, however, explicitly require remediation for victims or require provisions to prevent recurrence of violations. The code also provides contact information to report violations by e-mail, phone or text to McDonald's Office of Global Compliance.

The ILRF found that in the case of Taylor Farms, McDonald's failed to address violations of workers' rights when they were raised, protect the whistleblower who brought violations forward or leverage its influence with its supplier to

seek remedy. A Taylor Farms employee, Martin,⁷ contacted McDonald's regarding allegations of worker intimidation and sexual harassment in April 2014, calling the phone number listed in the Code to reach the Global Compliance Office. The call triggered an audit process, as required in the Supplier Code of Conduct. McDonald's contracted with the for-profit CSR firm Arche Advisors to conduct the audit. According to its website, Arche Advisors has "nearly two decades of experience in supply chain labor and sustainability practices," and offers companies "innovative solutions, flexibility, and custom packages...in the following areas: supply chain mapping, risk assessments, worker trainings, grievance systems, and development of full scale supply chain monitoring programs."⁸

ILRF's investigation found alarming discrepancies between what is proscribed by McDonald's in its Code of Conduct and its actions on the ground at Taylor Farms. An auditor from Arche Advisors visited Taylor Farms on behalf of McDonald's in August 2014. Martin reported to ILRF that when he asked the auditor about whistleblower protection, he was informed that he had none, and he was subsequently fired. None of the other workers interviewed by ILRF had any contact with the auditor. All of them reported they did not see any attempts by Taylor Farms to correct violations of the McDonald's Supplier Code of Conduct. By December 2014, however, McDonald's had ceased some or all of its ordering from the two facilities, leading to layoffs of dozens of workers in mid-December, right before the Christmas holidays. Multiple workers reported being told in one-on-one conversations with Taylor Farms managers that the union was the reason McDonald's pulled its business, and there was a meeting in which workers were told that McDonald's was leaving, "you know

why.” All workers we spoke to understood the implied meaning that the union was to be blamed for the loss in business. Flyers were widely circulated within the facility with photos of the union saying, “thanks for taking away McDonald’s,” and Taylor Farms managers had said repeatedly on previous occasions that union complaints would lead to job loss. Thus, rather than aiding in correction of the violation of McDonald’s Supplier Code, the audit became a tool management used to reinforce to the workforce that if they complain or attempt to unionize, they will face dismissal.

Whether any code of conduct is meaningful should be judged by its impact on working conditions on the ground. In this case, ILRF found evidence of serious violations of freedom of association at Taylor Farms. In implementing its code of conduct, McDonald’s not only failed to improve the situation, but bolstered Taylor Farms’ campaign against organizing workers. This report documents McDonald’s and Taylor Farms’ failure to respect workers’ rights and suggests improvements that would help the two companies, and others, to live up to their responsibility to the workers in their supply chains.

TERMS OF REFERENCE

The allegations examined in this report chiefly involve violations of workers’ freedom of association, specifically employees’ right to organize a union to protect their interests on the job, and in the broader economy and society. ILRF investigated worker rights violations with reference to core labor standards as defined by the International Labour Organization (ILO), the United Nations (UN) agency recognized as the primary standard-setting body for worker rights internationally. In 1998, in its Declaration on

Fundamental Principles and Rights at Work, the ILO identified five “core” labor rights that are applicable to all its member states, including the United States, regardless of their ratification status:

- the right to associate (ILO Convention No. 87);
- the right to organize and bargain collectively (ILO Convention No. 98);
- equal employment opportunity and non-discrimination (ILO Convention Nos. 100 and 111);
- prohibition of forced labor (ILO Convention Nos. 29 and 105); and
- prohibition of child labor (ILO Convention Nos. 138 and 182).

The United States has ratified only two of the eight fundamental conventions (Nos. 105 and 182). However, as a signatory to the 1998 Declaration, the United States is required to respect and promote all the principles and rights related to the Core Conventions. Freedom of association is also recognized as a universal human right in the United Nations Universal Declaration of Human Rights of 1948. Article 23 of the Declaration specifies clearly that, “everyone has the right to form and to join trade unions for the protection of his interests.”⁹

The ILO Committee on Freedom of Association, the highest international body charged with interpreting and protecting this right, has identified numerous examples of employer conduct which constitutes prohibited “interference” with freedom of association, including engaging in violence, imposing pressure, instilling fear, and making threats that undermine workers’ exercise of this right.¹⁰ The ILO Committee on Freedom of Association has indicated that “acts of harassment and intimidation carried out against workers by reason of trade union membership or

legitimate trade union activities, while not necessarily prejudicing workers in their employment, may discourage them from joining organizations of their own choosing, thereby violating their right to organize.”¹¹

The *Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework*, endorsed by the UN Human Rights Council, the United States government and many companies, establishes a framework to identify the respective duties and responsibilities of governments and businesses in preventing and remedying human rights abuses. The Principles make clear that the “corporate responsibility to respect human rights” exists independently of States’ abilities or willingness to fulfill their own human rights obligations. They also require that companies have a policy commitment to respect human rights, and proactively take steps to prevent, mitigate and, where appropriate, remediate, their adverse human rights impacts.

This responsibility exists even if a business, “has not contributed to an adverse human rights impact, but that impact is nevertheless directly linked to its operations, products or services by its business relationship with another entity.”¹² Where businesses themselves are not directly causing the violation of human rights, they are directed to take into account three considerations when deciding on a response: potential leverage over the entity committing the violation, the severity of the abuse and whether terminating a business relationship would have adverse human rights consequences. Businesses that have leverage to prevent or mitigate the adverse impact should use it. If such leverage does not exist, and cannot be developed, the business should use a credible assessment of potential human rights

impacts of terminating the relationship versus continuing efforts to mitigate the human rights harm and accepting the reputational and economic risks of that continued relationship.

METHODOLOGY

ILRF reached the conclusions outlined in this report on the basis of the following evidence:

- Focus groups of, interviews with, and written statements from close to 40 current and former employees of Taylor Farms’ two facilities in Tracy, California.
- A review of relevant documents, including:
 - *Unfair Labor Practice charges and testimony filed with the National Labor Relations Board.*
 - *Letters circulated to employees from Taylor Farms and its subcontractors*
 - *Photo and video evidence of freedom of association violations including: harassment, intimidation and violence*
 - *Copies of flyers collected by workers that were regularly posted or distributed inside the facility*
 - *Pay stubs*
 - *Communications between workers and/or their legal representative and state agencies regarding legal violations including: the Department of Fair Employment and Housing and the California Department of Industrial Relations, including the Division of Occupational Safety and Health and the Division of Labor Standards Enforcement*

- *Relevant third-party reports, including by Working Partnerships USA and the Occupational Health Internship Program,¹³ and the National Employment Law Project¹⁴*

- *Articles in public media outlets, including The Guardian,¹⁵ Monterey Herald News,¹⁶ and Huffington Post.¹⁷*

ILRF requested the participation and input from all parties involved in this investigation including the McDonalds Corporation, Taylor Farms, Teamsters Local 601, and Arch Advisors.

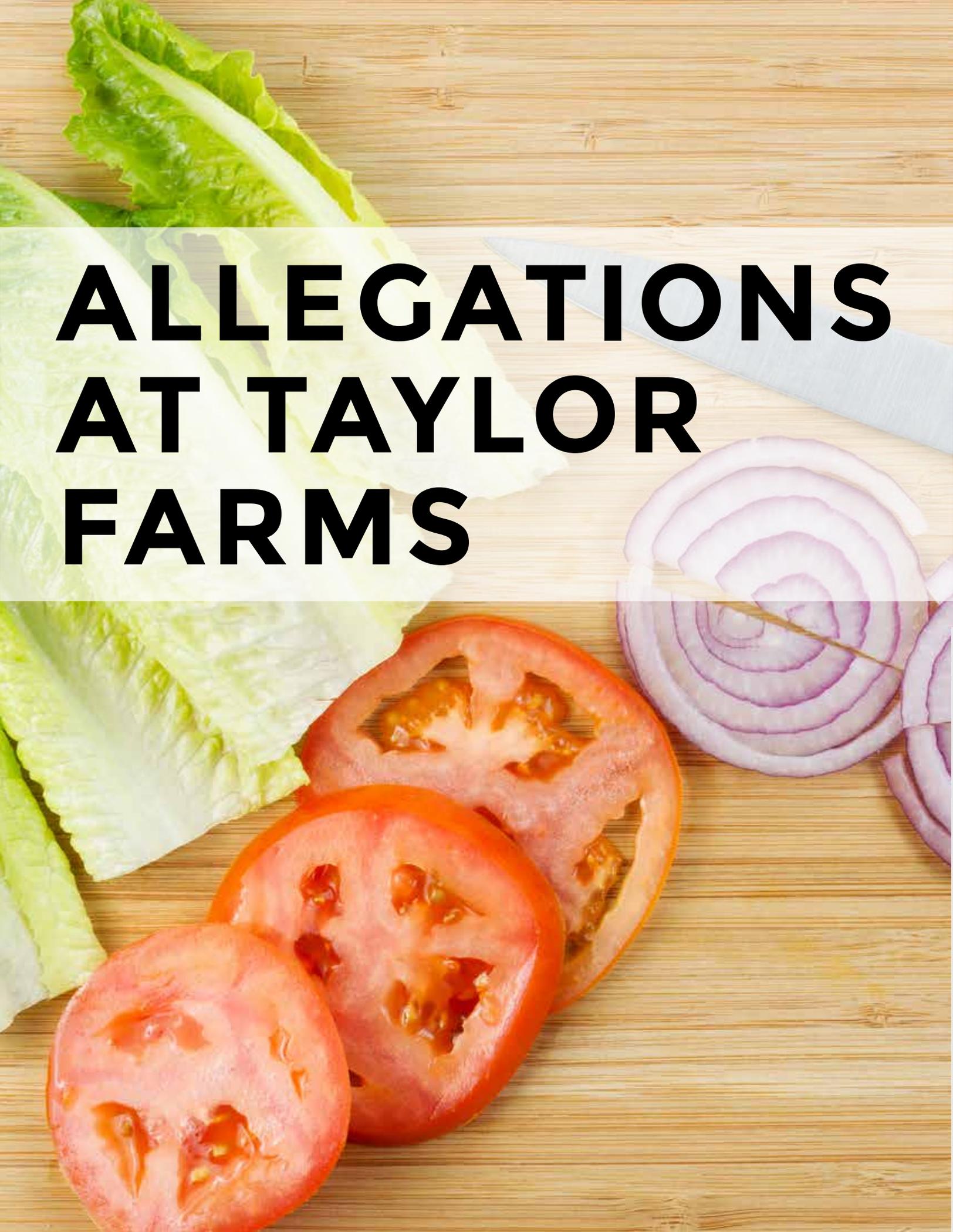
- The Teamsters Local 601 cooperated fully with this investigation and provided relevant documentary evidence requested by ILRF to investigate the allegations of serious labor rights violations.
- McDonald's Corporation sent a letter in response to ILRF's initial inquiry via the law firm Proskauer Rose LLP declining participation, and requesting all further communication be directed toward the firm. The letter said, "McDonald's will not comment on the allegations concerning Taylor Farms and its employees since it is not involved in, nor has any control over those decisions." Subsequent efforts to gain information from the firm about McDonald's implementation of its Supplier Code of Conduct or its audit of Taylor Farms were unsuccessful.
- Bruce Taylor, Taylor Farms' Chairman and CEO, also responded to ILRF's request for information with

a letter, and gave additional information in follow-up e-mails that was included in the report. Requests for an interview with Mr. Taylor or other Taylor Farms managers were not responded to.

- An initial letter of inquiry to Arche Advisors was not responded to. In a follow-up call, CEO Greg Gardner told ILRF all inquiries would have to go through McDonald's and its legal representation. Mr. Gardner also said he could not provide any information about Arche Advisors' standard auditing procedures outside of those specifically related to McDonald's and Taylor Farms.

ILRF began the investigation by contracting with a researcher with many years of experience in documenting labor rights abuses to conduct the field research. She started her research with a group interview of 30 current and former employees to establish the allegations for further investigation. Then, she selected 18 workers for in-depth interviews based on their first-hand experiences with alleged freedom of association violations, as this was the focus of the inquiry. To close the investigation, the field investigator held a focus group on key violations identified with 17 workers.

All interviews and focus groups were conducted off-site in a location where workers felt comfortable, including in their homes, local restaurants and community centers. All interviews were anonymous to prevent any retaliation against workers for their participation.



ALLEGATIONS AT TAYLOR FARMS



GOLDEN VENEER

Background

Taylor Farms has two facilities in Tracy, Calif.: Valpico and MacArthur. Taylor Fresh Foods acquired these two facilities in 2005 from Pacific Pre-Cut Produce, and they are operated by Taylor Fresh Foods' subsidiary Taylor Farms Pacific. At the time of ILRF's investigation, about 900 workers worked at the two facilities, two thirds of whom were contract workers employed by two third-party labor contracting companies: SlingShot Connections (henceforth, Slingshot) and Abel Mendoza, Inc.

Some workers at these two facilities have worked at Taylor Farms for more than a decade, but they are still considered "temporary" because they are hired by the

contracting agencies. The National Employment Law Project found that contract employees at Taylor Farms facilities received less than direct hire employees in terms of wages, and did not receive paid time off or medical coverage.¹⁸ Though beyond the scope of this investigation, workers ILRF spoke with also reported that contracted workers were paid less and felt they had less stability.

Some temporary workers at Taylor Farms are also made vulnerable because of their immigration status. Taylor Farms uses E-Verify to confirm the immigration status of its permanent employees, but SlingShot and Abel Mendoza do not. According to

E-VERIFY

National Law: E-Verify is a Web-based program administered by the U.S. Department of Homeland Security that compiles data from across federal agencies on individuals for the purpose of verifying employment status. Federal law does not require employers to use E-Verify, though four states do: Alabama, Arizona, Mississippi and South Carolina.

Under the rules of the program, employers must announce they use E-Verify during the hiring process, can only check new hires (not current employees) after they have been offered employment, and must check all new hires if they check any to avoid discrimination.

Arizona Law: The Legal Arizona Workers Act went into effect on January 1, 2008, and was upheld by the Supreme Court in June of 2011. It prohibits employers from knowingly hiring workers who

are not authorized under federal law to work in the United States, and requires employers to use E-Verify to verify the employment authorization of all new employees hired after December 31, 2007.

Though the law allows the State of Arizona to revoke the business licenses of employers found to be in violation, an investigation by Joe Henke of Cronkite News Service* found low levels of compliance; only 43% of businesses had registered by the end of 2012, and only 66% of new hires in 2011 had been through the system. The report indicates that may be because Arizona does not verify whether employers are using E-Verify. Rather, law enforcement waits for a complaint that a business is employing undocumented workers, and businesses can use their utilization of E-Verify as a defense that no undocumented workers were "knowingly" hired.

*Joe Henke, "Years after they became mandatory, employment checks are spotty." - Cronkite News. December 14, 2012

SOME WORKERS AT THESE TWO FACILITIES HAVE WORKED AT TAYLOR FARMS FOR MORE THAN A DECADE, BUT THEY ARE STILL CONSIDERED 'TEMPORARY' BECAUSE THEY ARE HIRED BY CONTRACTING AGENCIES.

a flyer on Taylor Farms letterhead ILRF received in the course of its investigation, Taylor Farms started using E-Verify in 2006. It says the company uses the system because Arizona law requires all employers in the state to use the system and employees move seasonally between the facility in Salinas, Calif., and Arizona.

Workers at these two Taylor Farms facilities contacted representatives of Teamsters Local 601 about forming a union in September 2013 in response to allegations of unsafe working conditions, discrimination and abusive treatment. Workers claim the response to their union organizing effort in the facilities was a systematic effort by the management to prevent workers from exercising their associational rights.

Workers participated in union elections in March 2014, but the Teamsters filed unfair labor practice (ULP) complaints alleging that Taylor Farms management harassed and intimidated workers in the lead-up to and during the election. The National Labor Relations Board (NLRB) impounded the ballots in response while it investigated the mounting number of unfair labor practice complaints filed by workers to determine if Taylor Farms had interfered in the workers' efforts to organize. At the time of this writing, a decision in that case was still pending.

Taylor Farms responded to the allegations of unfair labor practices in a written response to ILRF, saying:

Taylor Farms as the upmost respect for our employees across the system...The false allegations you recite were filed with the NLRB. The Teamsters Union has filed at least 87 ULP's to the NLRB to date regarding our Tracy operation. 66 of these ULP's have already been dismissed by the NLRB as having no merit...the allegations are

not true. We do not and did not discriminate against union activists. We did not interfere in advance of the union election. We took the opportunity to make sure employees had a balanced understanding of the issues under discussion. A great and healthy aspect of America is our right to self-determination through a secret ballot election. We completely support their right to vote to embrace or reject union representation. We respect the voice of our people and are looking forward to the day when their vote will be counted.

An independent evaluation of ULP filings based on a review of documents available from the NLRB website indicated that Teamsters Local 601 filed 89 ULP complaints against Taylor Farms Pacific between late 2013 and early 2015, and many also listed Abel Mendoza and/or Slingshot in the complaint. As of the time of this report, ILRF found that only 20 of those had been dismissed. Six had a portion of the complaint dismissed, but the NLRB was still considering a different portion of the complaint (a ULP complaint can contain multiple allegations that the NLRB may decide to determine the merits of on an individual basis).

Of the 89 complaints, 56 are closed, but 45 of those were withdrawn before a determination was made. Mr. Taylor said in an e-mail these claims were withdrawn, "presumably for a lack of evidence." Robert Bonsall and Christopher Hammer, legal representatives for Teamsters Local 601, said in a phone interview that complaints were most often withdrawn because witnesses either moved and could not be found, or declined to participate in the investigation, and indicated they had received information that some witnesses declined to participate out of fear of employer retaliation.

At the time of this writing, 33 ULP complaints are still open and being considered by the NLRB, either because no determination has been made (7), a determination was made on some allegations within the complaint but other allegations are still under investigation (6), or the complaint was dismissed and has been appealed (16). Mr. Hammer, however, cautioned against a strictly numerical-based assessment of the complaints, saying that one must take into account the substance of the complaints. “Some of the most serious of the charges may be the

ones that are still being decided, and the ones that have been dismissed may have been the more minor ones,” he said.

While ILRF did review the substance of some of the ULP filings in the course of its investigation, the findings of this report are based on independent interviews with current and former employees of Taylor Farms’ Tracy facilities, as well as additional documentation provided by those workers.



Taylor Farms Pacific, Inc.

Dear Taylor Farms Pacific, Inc. Employee,

Last week the union put on a circus and brought the television media to continue distracting you from the truth and defaming Taylor Farms. They think by attacking Taylor Farms' reputation they will win. The truth is everyone at Taylor Farms will lose. By attacking us we could lose clients who do not want to be associated with a Company the union is falsely accusing. If we lose customers we lose work, if we lose work we have to reduce our employees and everyone suffers, but not the union. Is that what you want? The union does not care if they destroy our reputation because it is not them who lose; it is our company and you, our employees.

Their tactic of slandering Taylor Farms and keeping you angry and confused with half-truths and lack of information is not working so they are desperate. All their nonsense is intended to manipulate you and give you false hope.

Why doesn't the union tell you the truth? No matter what they promise you they cannot guarantee anything because the union can only ask the Company for what they promised you. The union cannot deliver unless the Company agrees. The union never tells you what the law says because they know they do not have the power they say they have.

The fact is, to the union you are their paycheck. The Company pays you for your good work, but you will have to pay the union for the rest of your working life to keep your job at Taylor Farms. The union lives off you, like a parasite that lives off its victims. **Don't be a victim!** Don't risk your future and your family's security on the empty union promises they cannot guarantee.

Thank you,

Taylor Farms Pacific, Inc.

Letter on Taylor Farms letterhead

This letter was distributed to Taylor Farms employees in advance of the election. Workers interviewed by ILRF reported that letters like this were mailed to their homes and inserted in their paychecks frequently in the period just before employees voted on unionization. The letters frequently reflected the same threatening messaging delivered during captive audience meetings and in one-on-one encounters with Taylor Farms managers and supervisors.



GOLDEN VENEER

Findings

Through our investigation of the status of labor relations at Taylor Farms, ILRF concluded that Taylor Farms management regularly committed acts of anti-union discrimination that violated the right of workers to freely organize their own representative organization. We found these violations fit into three broad categories, each of which will be covered in more detail below:

- 1) Retaliation against union supporters, including violent intimidation
- 2) Persistent anti-union messaging with threats of adverse consequences from unionization
- 3) Anti-union coercion, including pressure to join anti-union demonstrations

“I feel persecuted by the managers and harassed because they are always watching me and seeing what I do... I am not even allowed to go to the bathroom unless I can get another person to cover my operation, I can’t go anywhere without asking permission. I don’t know anyone else who has to do this. Another person sleeps at his machine, and [manager name withheld] walks right past him. Before the election, I was never given a warning, but then suddenly there was a radical change after I started wearing the Teamsters T-shirt.”

- Leo, Taylor Farms Worker

1) RETALIATION AGAINST UNION SUPPORTERS

As noted above, ILO Convention 98, Article 1 provides that, “workers shall enjoy adequate protection against

acts of antiunion discrimination in respect of their employment,” and notes that such discrimination includes in particular, “acts calculated to... prejudice a worker by reason of union membership.” The ILO Committee on Freedom of Association has stated that this prohibition on discrimination applies to the allocation among employees of work assignments and benefits.¹⁹

In addition, the National Labor Relations Act (NLRA) guarantees workers the right to engage in certain activities at their workplace, including:

- Assisting a union to organize the employees of an employer;
- Attending meetings to discuss joining a union;
- Reading, distributing and discussing union literature (in non-work areas during non-work times, such as breaks or lunch hours);
- Wearing union buttons, T-shirts, stickers, hats or other items on the job at most worksites;
- Asking other employees to support the union, to sign union cards or petitions or to file grievances; and
- Talking with coworkers about wages or working conditions.²⁰

ILRF found, based on extensive, credible worker testimony, that Taylor Farms violated the rights of its employees as guaranteed in the NLRA and ILO Convention 98. Below is an analysis of the actions taken by Taylor Farms management and supervisors that, taken together, demonstrate a clear pattern of anti-union discrimination.

A. SURVEILLANCE, HARASSMENT AND ISOLATION

Fourteen of the 17 workers who participated in an

FOURTEEN OF THE 17 WORKERS WHO PARTICIPATED IN AN ILRF FOCUS GROUP REPORTED THAT SUPERVISORS AND/OR MANAGERS WATCHED THEM MORE CLOSELY AND PREVENTED THEM FROM TALKING TO OTHER WORKERS AFTER BEING IDENTIFIED AS UNION SUPPORTERS.

ILRF focus group reported that supervisors and/or managers watched them more closely and prevented them from talking to other workers after being identified as union supporters. Managers told them that they could not talk to other workers about the union, repeatedly called them over the radio or phone if they were not visible to supervisors, re-assigned them to isolated areas of the factory, and interrogated them about their union organizing activities. Managers took pictures of workers handing out flyers about the union and demonstrating outside the facility.

Worker stories:

- A supervisor told Matias that if he continued talking to workers about the union or inviting workers to meetings, he would be fired. After that, the supervisor was often watching him, or would send others to watch him.
- Mia, a crew lead, wore her Teamsters t-shirt to work one day, and a supervisor told her that she was setting a bad example. The supervisor told her and one other crew lead who also supported the unionization effort that they were not allowed to talk to workers about the union, but other crew leads were not told the same thing and often spoke to others negatively about the union. Mia was watched closely around the time of the election, being called over the radio if she was away from her station for even a few seconds to prevent her from speaking to others.
- Camila had been allowed to take a 30-minute meal break whenever she wanted during the day, along with other workers in her section. After being identified as a union supporter, she was told she had to take her break at a certain time, when no other workers were

Abusive Language:

Workers reported receiving death threats and threats of violence while handing out flyers or demonstrating in support of the union. In addition, workers heard identifiable Taylor Farms managers say the following to them as they demonstrated peacefully:

- *Ungrateful*
- *Ignorant*
- *Whore*
- *Dogs*
- *Bitch*
- *Son of a bitch*
- *Worthless*
- *Only good for cleaning toilets*
- *I will fire you*

taking their breaks. In addition, a supervisor called Mia into the office about a pro-union video she had posted on her personal Facebook page and threatened to fire her. She also found out that a high-level Taylor Farms official had visited her former employer to ask questions about her interactions with other employees at that workplace.

B. VIOLENT INTIMIDATION

ILRF documented two cases of violent intimidation that could be corroborated by additional eyewitnesses and other supplementary documentation:

- On March 11, 2014, Emma was handing out flyers in support of the union in the parking lot when someone yelled, “Be careful, they are going to hit you!” Emma



Demonstrator injured by thrown rock

turned to see an SUV driven by a high-level Taylor Farms manager inches from her, though she was not standing in the path of normal traffic flow. She said the manager drove past her, giving her an intimidating look, and flashing a thumbs up to anti-union demonstrators nearby. “I understand it was for him to scare me, because if it was an accident he would have honked or apologized or gone more slowly,” she said.

- On June 12, 2014, a worker who opposed unionization threw rocks at a group of workers demonstrating for the union. “They (security guards) did nothing,” said Camila, who was at the demonstration. “The Teamsters protected us and we got behind them, but from where I was, I saw [name withheld] throw rocks.” None of the workers interviewed knew of any disciplinary action taken against the worker who threw the rocks, although she was clearly identifiable and one witness had even seen her talking about the incident with a Taylor Farms manager.

C. RETALIATORY FIRINGS

ILRF conducted interviews with six workers who were fired soon after being identified as in support of organizing a union, and after managers and supervisors had harassed them in response to organizing efforts. Additionally, several workers reported that Taylor Farms asked them during hiring interviews if they supported the union or the company. Several workers also reported that managers told them to stay away from union supporters.

Worker stories:

- Emmanuel, who was employed through SlingShot, only received one infraction in his first three years of working at Taylor Farms. He was told to stay away from another worker who had been involved in organizing efforts, but started attending union meetings and wearing a Teamster beanie to work. After that, Emmanuel started accumulating disciplinary infractions for minor issues and was fired shortly after the union election with no explanation.

- Alejandro, who was employed through Abel Mendoza, realized he was being paid 30 cents per

“Anyone who was pro-union or wore our Teamsters beanies or t-shirts would get disciplined, and you’d see other guys do the same thing and not get written up. I got a warning for supposedly loading a truck wrong, but many people actually did this and are still working there.”

- Emmanuel, who was terminated by Taylor Farms in April 2014

hour less than he had been promised when he was hired. He told his supervisor about the issue, and started attending union meetings at about the same time. Alejandro was handing out flyers in support of the union at the factory after his shift one day when the supervisor saw him and confronted him about his activities, implying that he shouldn't be handing out pro-union materials. The next day, the supervisor monitored Alejandro closely and after his shift, he was given a check with the backpay for unpaid wages, but was told it would be his last day because the company, "didn't want problems."

- Daniel is the son of an active union supporter. When he was hired with Abel Mendoza, both he and his mother were asked if they were, "with the company or with the union." Within a month of working at Taylor Farms, Daniel was called into a mandatory meeting just before the election in which the meeting facilitator wrote "goon" on the board and asked people what it meant. The facilitator told the workers it meant cheaters and bad people, that this is who union people were and that they were only trying to steal votes and take immigrant jobs away. Daniel commented to the person sitting next to him, "this guy is crazy," and realized one of the people who had helped organize the meeting was sitting behind him. Four days later, Daniel tried to punch in, a manager stopped him and told him that he would no longer be working at Taylor Farms. When he asked for a reason, the manager said he did not have one, Daniel was just no longer working there. Daniel's direct supervisor found out what was happening, and took him into the office to advocate on his behalf, saying, "This is one hard working young man, and he wants to know why he is getting fired." The only response Daniel received was, "He has completed his assignment."

"There are many injustices. The people who support the company commit errors and they don't suspend them, but for those of us who they know support the union they find pretexts to punish them or kick them out. We have seen this with so many people."

—Thomas, Taylor Farms employee

D. RETALIATORY DISCIPLINARY ACTIONS

Many workers who were visibly supportive of the union organizing effort (including several fired workers) had clean disciplinary records, or a few minor write-ups, before they were identified as union supporters. After being identified as in support of unionization, however, managers wrote them up repeatedly for small, even made-up, infractions and/or things for which other workers who did not support the union were not written up.

ILRF conducted a focus group with 17 workers who self-identified as union supporters, and was able to interview 12 to get data on their rates of disciplinary actions. Nearly every worker saw a dramatic increase. On average, workers interviewed had been at Taylor Farms for 4 years. Prior to the effort to form a union in 2014, they received on average .03 disciplinary actions per year per person. In 2014, the year the union had formed and the anti-union campaign started, they reported an average of 1.8 disciplinary actions per person- a more than 6 fold increase. The most extreme case was a worker who had been working there for 9 years with no disciplinary actions on his/her record, but in 2014 was written up for reported infractions 3 times (*see table next page*).

<i>Number of Years Working at Taylor Farms</i>	<i>Number of Infractions before 2014</i>	<i>Number of Infractions in 2014</i>
<i>9 years</i>	<i>None</i>	<i>3</i>
<i>7 years</i>	<i>None</i>	<i>None</i>
<i>6 years</i>	<i>None</i>	<i>1 warning, 3 times called into the office</i>
<i>5.5 year</i>	<i>None</i>	<i>None</i>
<i>5 years</i>	<i>1 in first 6-7 months</i>	<i>1</i>
<i>5 years</i>	<i>None</i>	<i>1, retracted eventually</i>
<i>4 years</i>	<i>None</i>	<i>3 warnings, 2 suspensions, fired</i>
<i>2.5 years</i>	<i>None</i>	<i>1</i>
<i>2 years</i>	<i>None</i>	<i>1</i>
<i>1 year 4 months</i>	<i>None</i>	<i>5</i>
<i>1 year 8 months</i>	<i>None</i>	<i>1</i>
<i>1 year</i>	<i>None</i>	<i>2.5</i>

All the workers reported that they understood the disciplinary measures to be retaliation for their support for organizing a union. They saw workers supporting the union disciplined much more harshly than those who did not, and described to ILRF that they were also getting hostile anti-union messages on paid time, in flyers, and directly from managers. They thus perceived the disciplinary actions to be part of a coordinated anti-union campaign. Of the 17 participants in the focus group, three were fired, four were suspended, and two had family members fired. Thirteen reported that they had personally seen a worker who did not support unionization do the same thing they had been disciplined for and not receive disciplinary action.

Worker stories:

- Camila was handing out flyers in support of the unionization effort when a crew lead (a worker with some supervisory authority) and a supervisor began insulting her, calling her a “perra” [bitch] and saying she was only good for cleaning bathrooms. Camila reported the insulting language to a manager and told a coworker about the incident in the bathroom. A third worker overheard the discussion in the bathroom, and reported to management that she felt threatened by Camila because she had expressed frustration about the workers who did not support the union. Even though witnesses dispute

this accusation, Camila was suspended without any investigation. When she asked what had happened with her initial complaint about the abusive language, a supervisor told Camila that no one knew anything about it, and she never received any information that it had been addressed.

- Leo told ILRF that several workers had complained about two people, a supervisor and a crew lead, who regularly sat next to people in the cafeteria to listen in on conversations and monitor who was talking to whom. To his knowledge, no one ever complained about Leo, however, he received warnings simply for talking to coworkers. The general manager also confronted Leo about a bag of flyers in support of the union he was passing out. The manager did not directly order Leo to stop distributing them, but his impression was that the conversation was meant to intimidate him and let him know he was being watched.

- Emma complained to the human resources department that another worker, who was actively opposed to the unionization effort, was disseminating private information about her. Emma provided witnesses who confirmed the allegation. Management told her they would investigate, but when she went back to check on the complaint, they said there were not sufficient witnesses. Emma felt her treatment was unjust because, “other people are fired or suspended without any witnesses backing up a complaint, just because they support the union.”

E. RETALIATORY REDUCTION OF HOURS OR FAILURE TO GIVE RAISES

According to paycheck stubs, several workers had their hours and pay reduced after being identified

as union supporters, either by cutting back their schedule or due to suspensions. Of the 17 workers in the focus group, 10 reported reductions in the hours they worked, which they believed were because of their support for the union. Workers also reported that in December of 2014, Abel Mendoza was hiring people to bring into Taylor Farms, while many union-supporters had their hours cut to fewer than 8 per day, supposedly because of a lack of work. Workers also reported that management gave overtime hours to workers who were not active in union organizing efforts, but not to workers who supported the union.

“I applied to a better position, and one of the supervisors told me the reason you will never get promoted is because of the union.”

- Thomas, Taylor Farms employee

In addition, workers reported across the board that they were told they would not receive raises or promotions because of their efforts to organize a union. In regular captive audience meetings with consultants and meetings with management, workers were told that raises were “frozen” because of the union, and that if the unionization effort was successful, they could all face reduction in working hours. In at least two instances, workers found out that some workers who opposed unionization had received wages and approached management about the different treatment. They were told that management couldn’t provide any raises to workers who supported the union because it could be seen as bribery. In essence, this policy led to discrimination of union supporters and gave workers the impression

that raises were dependent on (1) not being union supporters and/or (2) the union “situation” ending.

Worker stories:

- Camila told ILRF that she had made the same amount as a coworker in her section. Later, the coworker appeared in a company-produced, anti-union video and showed off her check. She had a raise of \$1.50 an hour and told Camila, “See, this is what you get for supporting the company.” This was about a week before the union election.
- Mia, a crew lead, was told by a worker on her line that she and another worker had been invited to a meeting on work time, with soda and cookies, in which a manager offered them \$1 more per hour if they agreed to convince people to vote no for the union. Mia confronted the manager, saying workers in her department had been asking for a \$1 increase for some time and that if it were offered to some workers it should be offered to all workers. The manager told her that all raises were frozen because of the union and denied having organized the meeting in question.
- Emma had worked at Taylor Farms for 10 years, 6 days a week, 9-10 hours per day when she became active in the union organizing effort in late 2013. Right before the election, she was informed her hours would drop to 5 days a week, 8 hours per day. Another worker in Emma’s department who joined the union effort later also had her hours decreased, and a worker who had only been there for 2 years, but did not support the union, had her hours increased. Emma’s average salary went down by 22% after the company began reducing her hours, according to pay stubs reviewed by ILRF.

2) PERSISTENT ANTI-UNION MESSAGING WITH THREATS OF ADVERSE CONSEQUENCES FROM UNIONIZATION

A. REGULAR CAPTIVE AUDIENCE MEETINGS

A key element of Taylor Farms efforts’ to prevent workers from organizing was to require employees to attend anti-union “captive-audience” meetings. A brief by an associate professor at Marquette Law School succinctly describes what these meetings are, and their intended consequences, “Employees, in the midst of deciding whether to join a union, are compelled to attend an assembly where management has a one-way conversation with them about the evils of unionism. These meetings occur during working hours because the employer is then best able to exert its economic authority over employees and to play on fears of job loss if employees vote for the union... One former chairman of the National Labor Relations Board characterized this power of an employer to monopolize its workplace for anti-union speeches as ‘an extremely devastating technique in organizational campaigns.’”²¹ While permitted under current U.S. labor law, the use of captive-audience meetings – in combination with the denial to workers of similar access to information from union supporters – has been frequently criticized as violating freedom of association under international labor standards.²²

Workers reported being made to attend between 1-5 employee meetings with anti-union consultants. All workers ILRF interviewed had to attend at least one meeting, but there was wide variation. The meetings were often divided by groups: English/Spanish; direct hire/contract workers, and anti-union/union supporters. Workers reported that management

more actively targeted workers who were determined to be undecided or leaning against unionization. Active union supporters even reported being denied entry into meetings, or being removed for asking questions.

“I only went to one meeting for English speakers, with a very different message from the consultant. It was primarily for union supporters, and they just told us about the ballot and the urns and how the process would be. But I heard from my coworkers who were Spanish speakers and non-union supporters that they told them different messages, about how immigration would come. They targeted the Mexicans especially.”

-- Martin, Taylor Farms employee

Workers also noted that the most direct threats were reserved for the meetings held in Spanish for anti-union/neutral contract workers. That group of workers was also brought in for the highest number of meetings before the election (at least 5). Workers told ILRF that meeting facilitators tended to lean toward more veiled or indirect threats with English speakers, direct hires or union supporters.

The workers reported across the board that consultants were used. In addition to the meetings, the consultants would walk around the facility trying to gauge level of support individuals had for the union effort, and delivering threats about negative consequences of unionization in direct conversations with Taylor Farms employees. In addition, many workers reported that the consultants initially

claimed that they were “neutral,” weren’t paid by the union or the company and were simply there to give workers information in their best interest.

The threats communicated through the meetings were that the following would happen if the union won the election:

- Prices would increase; customers would leave; and workers would be laid off
- Taylor Farms would close or relocate to another region or state
- All workers would be forced to do E-Verify, and many would be fired and/or deported as a result
- Workers would lose hours
- Nobody could get a raise because of the union

“They told us about all the bad things about the teamsters- they said they would rob our salary and that would maybe have to close the plant because... the Teamsters have closed other plants... They said if workers didn’t have documents that they would fire us because the Teamsters need people to have documents. They were the consultants, no managers were there.”

-- Antonia, Taylor Farms employee

Workers also reported that consultants called the Teamsters violent goons and used other scare tactics, including warnings that unionization would lead to violent strikes and workers would lose pay or their jobs as a result of the union. Contract workers also reported being told, incorrectly, that they would not be allowed to vote in the union election.

Videos were used to reinforce these messages. Workers reported that a 50-inch TV was installed in the cafeteria and anti-union videos were played at loud-volume during break times. Taylor Farms also made a video with workers from Taylor Farms testifying to why they didn't want the union. Several workers reported that the video was shown in a mandatory meeting at the Valpico facility a week before the election. At the meeting, Taylor Farms CEO Bruce Taylor and Garth Borman, president of Taylor Farms Pacific, "apologized for their errors, and asked the workers to give them another chance by voting no and to give them a chance to improve the conditions moving forward," according to one worker who attended.

B. ONE-ON-ONE THREATS AND INTIMIDATION

In addition to the captive audience meetings, all of the workers ILRF spoke with reported that managers intimidated them individually and directly against organizing the union, on average about 5 incidents per worker.

"My supervisor told me 'not to believe the union,' and I told her I was with the union and wasn't going to stop attending meetings. She said the union would close the company, and we'd all lose our jobs because of the union."

-- Matias, Taylor Farms worker

A sampling of one-on-one incidents mentioned in the

focus group included:

- The general manager of the MacArthur facility approached a worker wearing a Teamster's shirt and asked, "Why are you wearing that shirt?" He told the worker he could lose money as a result of the union winning the election. The same manager asked another worker, Andreas, what his Teamsters t-shirt meant. When Andreas responded that it meant benefits for workers, the manager said the union was only trying to steal union dues, alleged his paycheck would be much less after dues deductions, and told him the union would decrease orders to the facility and cause undocumented workers to lose their jobs because of E-Verify. The manager told Andreas he needed to just focus on doing his job well and nothing more.
- The general manager of the Valpico facility asked a union supporter, "Why are you doing this? There are people who don't have their documents and they would be affected." Another worker said they had the same interaction with him. He asked another to go with him into the office so that he could explain why he didn't want the union in the factory.
- A slingshot manager told a worker to "vote for us and bring your people"
- A crew lead asked a worker, "Why are you voting for the union? Don't do it, they can fire you."
- In November, four workers suspected of being leaders in the unionization effort were called into a meeting at the MacArthur facility with a top manager of Abel Mendoza. The manager told them the union was only interested in union dues and

was lying to them. He also told them they couldn't vote, insinuating first that it was because they were undocumented and then that it was because they were contract workers. He told them that undocumented workers would lose their jobs if the union organized. In addition to individual meetings, managers from Taylor Farms and the contractors sent letters to workers, often on Taylor Farms letterhead, with threats about what would happen if the union won the election. SlingShot employees received letters in their paycheck envelopes, Abel Mendoza employees received letters mailed to their homes, and Taylor Farms employees received both. The workers ILRF interviewed all received at least three such letters, and some received more. One worker estimated she got a written message in some form every other week between December 2014 and the election in March 2014.

ILRF obtained nearly a dozen of these letters, which contained many of the same threats described throughout this report. However, two are particularly worth highlighting because they demonstrate how Taylor Farms responded with threats against employees when the Teamsters brought public attention to the troubles at the company:

- Date unknown, a letter on Taylor Farms Letterhead, signed by "Taylor Farms Pacific, Inc.," referencing that the union brought TV media to cover abuses at Taylor Farms, the letter says, "The truth is everyone at Taylor Farms will lose. By attacking us we could lose clients who do not want to be associated with a Company the union is falsely accusing. If we lose customers we lose work, if we lose work we have to reduce our employees and everyone suffers, but not the union. Is that what you want? The union does not care if they destroy our reputation because it is

not them who lose; it is our company and you, our employees... The fact is, you are their paycheck... The union lives off you, like a parasite that lives off its victims. Don't be a victim! Don't risk your future and your family's security on the empty union promises they cannot guarantee."

- Sent the week of December 15th, 2014, a letter on Taylor Farms letterhead, signed by Garth Borman, President Taylor Farms Pacific and Alan Applonie, COO Taylor Farms Pacific, responds to a planned Teamsters demonstration outside a Taylor Farms' customer, "The union's actions prove they only care about getting your money and not representing you and your families by attacking Taylor Farms and its customers. We can't stress enough how risky this is for Taylor Farms and each of you. By this this and aggravating our customers we may all lose the business of our customers:

- *If we lose business we could be forced to reduce the workforce, or possibly even close due to lack of business*
- *This shows the union doesn't care if you lose your job, they only care about the money*
- *If they did care they would not be trying to inflict pain on you and your family, especially during the Holidays...*

3) ANTI-UNION COERCION

A. THE A-TEAM

According to internal communications obtained by ILRF, and corroborated by testimony from more than a dozen workers, Taylor Farms assembled a team of anti-union workers, crew leads and a few supervisors and office staff. This group was tasked with carrying out anti-union activities, including handing out anti-union flyers, hanging posters, yelling at/

harassing union demonstrators, and organizing counter-protests. These were all done clearly with management permission and often during work time.

They (the A-Team) can do whatever they want and wander around the warehouse with unlimited access and make flyers on company time. I have seen some people looking up photos for the anti-union flyers on work computers.

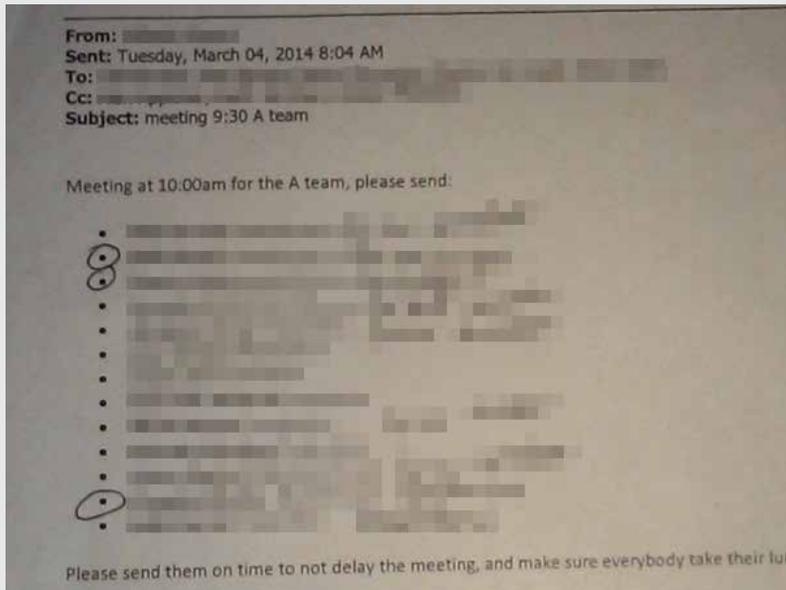
-- Samuel, Taylor Farms worker

As described in the discrimination section above, these workers were given advantageous treatment when compared with union supporters. Specific special treatment bestowed on A-Team members and not others included:

- Promotions (at least two active anti-union workers were promoted to supervisors shortly after the election)
- Being allowed to leave during a shift to pick up children and come back
- Immediate approval of leave requests (other workers reported waiting up to two weeks)
- Longer break periods
- Reserved parking close to lunch areas, often with anti-union signs displayed on the car
- Lower productivity expectations
- Free food

Worker stories:

- Leo works at the MacArthur facility, but he noticed that several A-Team members from the Valpico facility would frequently come during work hours, walk the production line, and speak



A-Team Memo

This e-mail from the general manager of the MacArthur facility to other Taylor Farms management (including the president and chief operating officer of Taylor Farms Pacific) shows 13 members of the A-Team being invited to a meeting during work hours. It also shows Taylor Farms ordered lunch for the meeting.

Note: Names were blurred to protect the privacy of those identified.

poorly about the union. When Leo heard them call workers who supported union “rats” and “thieves,” he complained to human resources that he felt they were intimidating workers. He asked for a written acknowledgement that a complaint had been filed, but never received one.

- Emma would frequently hand out flyers in support of the union or participate in pro-union demonstrations when she was not working. She reported that she saw the same people come out repeatedly, while on their shifts, to yell at workers demonstrating in support of the union. One of these workers grabbed a Teamsters t-shirt out of Emma’s hands, wiped in on her buttocks, spit on it, and threw it back at Emma, saying, “we are all going to regret this.” Emma also told ILRF that these same workers passed out flyers on work time that said, “no to the union.” “It had to be with the company’s knowledge and permission,” she said, “because they would come out and bother the union activists even when they were working, or they were handing out fliers at different facilities and areas than where their job was.”

- Mia reported seeing A-Team members in the office often, eating donuts, drinking coffee and watching sports on television. As a crew lead, Mia sometimes had to go into the office, and when she did she said these workers would immediately stop talking and not acknowledge her.

B. COERCION TO JOIN AND PAID TIME PROVIDED FOR ANTI-UNION ACTIVITIES

In addition to the above, ILRF found a clear pattern of Taylor Farms management regularly violating its duty of non-interference by giving preferential treatment

to employees expressing anti-union sentiments. Management gave crew leads and supervisors who opposed unionization work time to speak to workers and attend anti-union rallies. In contrast, union supporters, including crew leads, were explicitly told not talk to workers about the union.

“When there were pickets they made everyone stop production and go and made them wear the anti-union t-shirts. The manager gave the order and told us “you have to go and support”... They said we had to leave because there was a complaint against the company and we had to go outside so that we could show we were united. Many people were opposed, but they said at least come outside. They told people going outside not to punch out.”

-- Mia, Taylor Farms worker

On multiple occasions, A-Team members and management told workers to go outside and support anti-union protests on paid work time. ILRF documented two separate incidents when Taylor Farms stopped production and pressured all workers to participate in counter-protests opposite union demonstrations. On one of these occasions, June 12, 2014, Taylor Farms provided buses to transport workers to the protest site. The counter protest turned violent, and security guards did not intervene when a worker opposed to unionization threw a rock at workers demonstrating in support of the union.

Several workers ILRF interviewed saw A-Team members produce and copy anti-union flyers inside the facility on paid time. “They would close the curtains in the office and a few minutes later, they’d

be out handing out flyers,” one worker reported. The flyers were sometimes very offensive. One depicted union supporters as “mules” in Mexican dress, another showed the union as rich pigs on piles of money in cartoons, and a couple used personal photos of union supporters’ Facebook pages to publically smear them. Flyers often used the same threats delivered in captive audience meetings including claims about union dues and fees, allegations of loss

of work, threatening in increase in the use of E-Verify, and other similar intimidation messages.

Though management supported the distribution of flyers in opposition to the union, flyers and signs showing support for the union were removed all over facility. A top manager had a hung a large banner that said “Vote No.” When workers who supported the unionization effort placed a “yes” sticker over the “no,” the manager was seen taking down the “yes” sticker, but leaving the banner.



Discriminatory flyer

This flyer circulated through the two Taylor Farms facilities before the election. It plays off of racial stereotypes to attack the union and its supporters.

Translation: *This is what the union really means.*

A wooden cutting board with sliced lettuce, tomato, and onion, and a knife. The text "MCDONALD'S INVOLVEMENT" is overlaid in the center.

MCDONALD'S INVOLVEMENT



GOLDEN VENEER

Background

McDonald's Corporation was a large purchaser of produce from Taylor Farms facilities in Tracy, buying grape tomatoes, sliced tomatoes, sliced lemons, sliced onion, chopped onion and lettuce. The McDonald's Supplier Code of Conduct sets out in its introduction that, "One way we live our value of continuous improvement is to ensure fair and ethical workplace standards in every corner of our supply chain. We care as much about the people who make our products as we do about our customers."²³ It outlines the values of the company, and then introduces the Code of Conduct saying, "At McDonald's, our Core Values are integral to how we do business, and we expect our suppliers to respect and promote these values...At a minimum, we require that all suppliers and their facilities meet the standards and promote the principles outlined in this Code..."

The code's standards are broken down into four broad categories:

- 1) **Human Rights:** adherence to the Universal Declaration of Human Rights, employment status and practices, anti-discrimination and fair treatment, working hours and rest days, underage labor, and wages and benefits.
- 2) **Workplace Environment:** training on safe work practices, safe and healthy workplaces for all employees.
- 3) **Environmental Management:** measure and minimize environmental impact, special focus on air emissions, waste reduction, recovery and management, water use and disposal and greenhouse gas emissions.
- 4) **Business integrity:** compliance with law, anti-bribery, audits and assessments, books and records, confidentiality, grievance mechanism and whistleblower protection.

The Code includes ways to report violations of the code, "by an employee or agent acting on behalf of the supplier of McDonald's," by e-mail, phone or text. The Code is not clear about what McDonald's commits to do in cases of Code violations. However, it does outline McDonald's auditing process to ensure compliance, "McDonald's reserves the right to audit compliance with this Code. Audits are facility inspections that include employee interviews and a review of supplier records and business practices. Such audits are conducted by McDonald's or its approved monitoring firm. If an audit identifies a violation of this Code, suppliers shall act promptly to correct the situation to McDonald's satisfaction." (emphasis added) McDonald's places responsibility for reporting violations of the Code and correcting them on suppliers, and states that, "such programs shall protect worker whistleblower confidentiality and prohibit retaliation."

A Taylor Farms employee contacted McDonald's regarding allegations of worker intimidation and sexual harassment²⁴ in April 2014, by calling the phone number listed in the Code to reach the Global Compliance Office. The call triggered an audit process, which McDonald's reserves the right to do in the Code. McDonald's contracted with a for-profit firm called Arche Advisors to conduct the audit. An auditor from Arche Advisors visited Taylor Farms on behalf of McDonald's in August 2014. ILRF spoke with the worker who placed that call, and we asked other workers if the auditor spoke with them during that audit. None had any contact with the auditor. ILRF attempted to obtain a copy of the audit from both McDonald's and Arche Advisors. Both declined to provide copies of the report, or any information about how the audit was conducted. Arche Advisors declined to answer any questions, referring ILRF to

RIGHT BEFORE THE HOLIDAYS, DOZENS OF WORKERS WERE LAID OFF, WITH THE LOSS OF MCDONALD'S CONTRACT BEING CITED AS THE REASON.

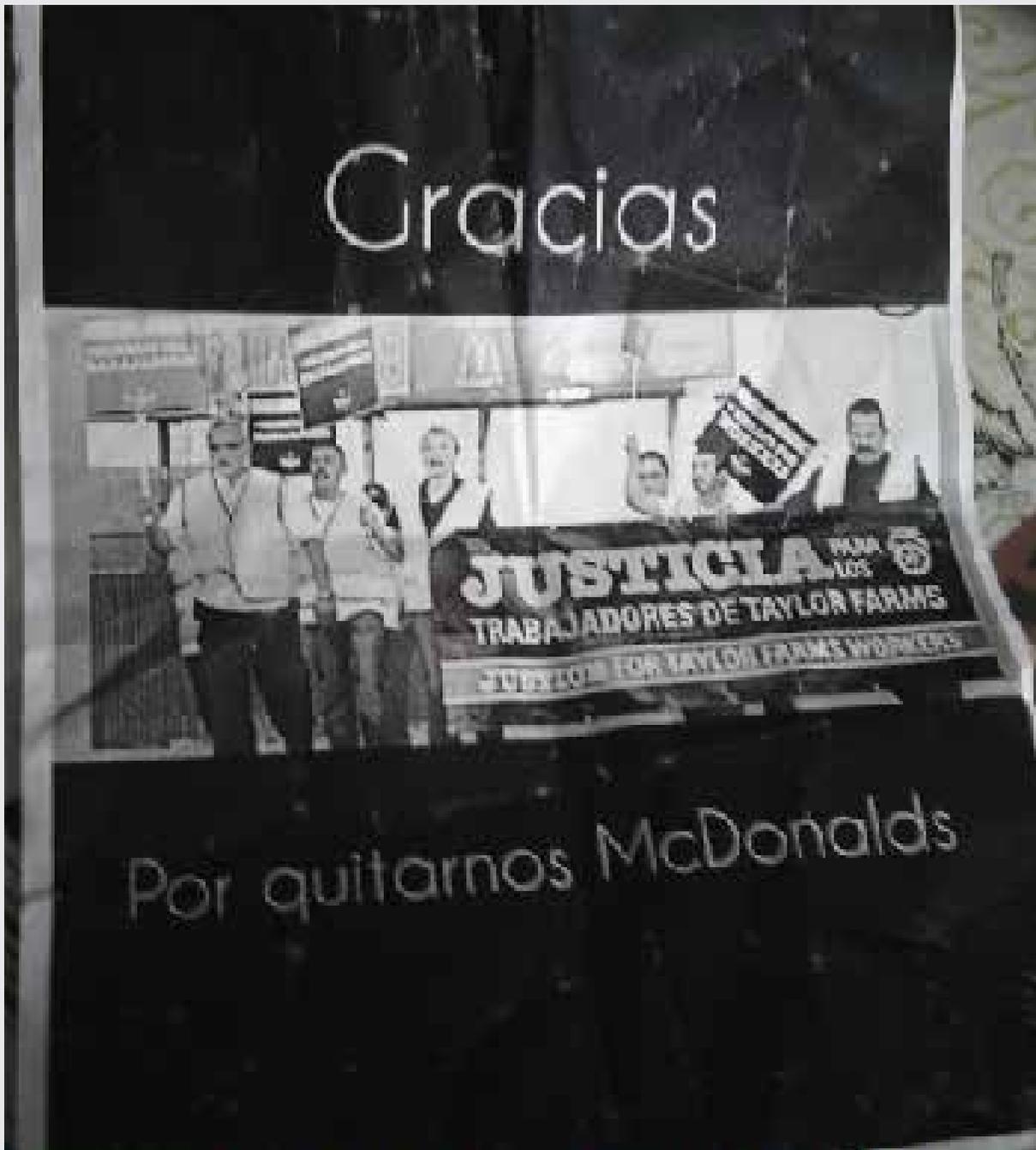
McDonald's legal representation. ILRF did receive a response from legal representatives of McDonald's that declined to participate in this inquiry, "Please be advised that although McDonald's expects all of its suppliers, including Taylor Farms, to respect and promote the values outlined in the McDonald's Supplier Code of Conduct through their own employment policies and practices, McDonald's has no involvement in or control over any decisions of its suppliers, including those concerning the supplier's employees...McDonald's will not comment on the allegations concerning Taylor Farms and its employees since it is not involved in, or has any control over those decisions."

Though none of the workers ILRF interviewed spoke with the auditor, besides the worker who had voiced the initial complaint, they were aware that an auditor for McDonald's had visited the factory. One worker reported that the Valpico plant manager pulled her and another coworker aside while the auditor was there to tell them there was an investigation and that the company didn't want to be involved with suppliers who had political or immigration problems. He told the workers to tell others that if anyone asked why they were not direct hires, they should make sure to not say it was because of their immigration status.

Taylor Farms management talked to workers about McDonald's at large employee meetings at both the Valpico and McArthur plants in early December,

about 3 months after the audit. At both meetings, Garth Borman, president of Taylor Farms Pacific presented information in English and Alan Appolone, chief operating officer of Taylor Farms Pacific, "translated" into Spanish. Workers at both meetings reported that the information conveyed in English was different than what was conveyed in Spanish. The stated purpose of both meetings was to inform workers that McDonald's had cancelled its contracts with the Taylor Farms' Tracy facilities. Both meetings conveyed information that this decision was not made because of quality of product. In English, managers said they did not know the reason the orders were cancelled, but in Spanish, workers were told, "you know why." The workers reported that they understood the intent of that phrase was to blame the union for the loss of work. Shortly after this meeting, right before the holidays, dozens of workers were laid off, with the loss of the McDonald's contract being cited as the reason.

ILRF asked McDonald's for clarification about its decision-making process in terminating the contracts with these two facilities, but again, it declined to comment, saying, "McDonald's decides whether and to what extent to contract commercially with its suppliers based on a broad and diverse set of factors; and it would not be appropriate to discuss any particular commercial decision as to any supplier other than with the supplier."



Blaming the Union

Taylor Farms workers heard that the union was to blame for the loss of business from McDonald's during captive audience meetings, in one-on-one meetings with managers and supervisors, and via this flyer that circulated around the facility. The flyer purports to show the Teamsters demonstrating outside a McDonald's, an accusation the union denies.

ILRF obtained a copy of the original photo, which clearly shows the demonstrators marching down a public street with a McDonald's billboard in the background. The makers of the flyer zoomed in so it would appear as though they were picketing outside a McDonald's restaurant.

Translation: *Top: Thank you*

Bottom: For getting rid of McDonald's for us



GOLDEN VENEER

Findings

ILRF's investigation of Taylor Farms found that McDonald's fell short of the goal stated in its Code of Conduct of "creating an atmosphere where workers, suppliers and franchisees understand and embrace our values." The Supplier Code of Conduct was unable to prevent grave violations of workers' rights, or uncover them until a worker spoke out. When that happened, McDonald's was not only unable to protect the worker who spoke out, but its subsequent actions fueled further anti-union threats against workers attempting to express their right freedom of association. McDonald's has leverage with Taylor Farms, but rather than use that leverage, it chose to cut ties. Rather than support remediation of the human rights violations at its supplier, McDonald's thus reinforced the message workers were receiving from Taylor Farms that when workers complain or attempt to organize they will lose work. This undermines workers' free exercise of their rights.

"The auditor said he would relay the message to his big boss and see what they would do. The worst case, they would pull their orders. I told him I didn't want it to be pulled, I just want people to not face harassment. People shouldn't have to work in a hostile environment. He said it wasn't up to him, but he didn't explain the process. I thought he was going to help, but then I felt like I shouldn't have called."

-- Martin, the Taylor Farms worker who called McDonald's to report problems

McDonald's failed to implement its own Supplier Code of Conduct in three critical respects, each of

which ILRF has identified as a contributing factor to the disempowerment of workers that resulted from McDonald's intervention at Taylor Farms. Each is discussed in further detail below:

- 1. No whistleblower protection:** The "whistleblower protection" described in McDonald's Supplier Code of Conduct was not provided and, according to the auditor from Arche Advisors, does not exist.
- 2. Cut and run:** Three months after an audit, McDonald's reduced or ceased altogether its contract with the Taylor Farms' Tracy facilities. Three months would not have provided sufficient time to address the breadth and depth of problems at Taylor Farms and "correct the situation," as required in McDonald's Code.
- 3. Anti-Union campaign facilitation:** The workers did not have access to the audit findings, and McDonald's did not inform workers about the reason it ended orders with Taylor Farms. Taylor Farms management was thus able to use the secrecy of the audit and silence from McDonald's to blame the union for the loss of business and reinforce to the workforce that if they complain or attempt to organize a union, they will face dismissal.

1. WHISTLEBLOWER PROTECTION

Martin, the employee who reported the initial problem to McDonald's was under the impression that the "whistleblower protection" referenced in the Code was a policy that would protect him from retaliation. He initially asked the auditor to note his name as the whistleblower so that he could obtain that protection. The auditor replied that Martin had no protection, since he had not complained to a federal agency, and

MCDONALD'S WAS NOT ONLY UNABLE TO PROTECT THE WORKER WHO SPOKE OUT, BUT ITS SUBSEQUENT ACTIONS FUELED FURTHER ANTI-UNION THREATS AGAINST WORKERS ATTEMPTING TO EXPRESS THEIR RIGHT TO FREEDOM OF ASSOCIATION.

that there was nothing he or McDonald's could do to protect him. Martin told ILRF he got angry at that point, saying he would not have complained had he known that from the outset. The auditor called Martin two days later to tell him he did not have to mention his name to Taylor Farms, that the company already knew who had submitted the complaint.

After the audit, Martin was kept under constant surveillance, receiving calls to his private cell phone if he was away from his work station. He was harassed for being a "snitch." Managers took pictures of him talking to other employees. Martin was fired shortly afterward. When he contacted the auditor, the auditor told him there was nothing they could do; it was entirely up to Taylor Farms as to whether or not he should be hired back. Other workers reported to ILRF they were told to stay away from Martin, and several of the retaliatory firings outlined above were of workers who had sought Martin out after those warnings to find out when union organizing meetings would take place.

McDonald's communicated to ILRF that its suppliers are separate businesses responsible for their own personnel decisions. Yet in this case McDonald's set up a hotline, communicated to workers that they would be protected if they used it, and after a worker who used the hotline was fired, did nothing. Furthermore, the most fundamental premise of an audit of labor conditions is to do no harm to the workers involved. McDonald's and Arche Advisors have an obligation to protect workers who speak out, otherwise the audit system established will simply have a chilling effect that prevents workers from reporting when they are in abusive employment situations, as has been the result in this case.

2) CUT AND RUN

Though ILRF could not determine without McDonald's participation in the investigation what steps it took to encourage Taylor Farms to "promptly correct the situation," as directed in the Code, it is clear three months is not sufficient time to address the serious freedom of association violations found at Taylor Farms. By taking a "cut-and-run" approach, rather than engaging with Taylor Farms to correct the issues, McDonald's enabled the abusive behavior to continue.

"[Supervisor name withheld] told me in a one-on-one conversation that we had lost the contract because of the union. She said, 'see it's the union's fault,' and, 'it was because the people who went to McDonalds and other companies and said we weren't paid well or we were abused... McDonald's doesn't want to have problems.'"

-- Valentina, Taylor Farms worker

Based on the conversation ILRF had with Martin about the audit process itself, it appears that the audit was primarily geared more toward protecting McDonald's public image than protecting the workers in McDonald's supply chain. Evidence for that assessment include:

- The auditor emphasized to Martin that he should "keep quiet" and "don't leak stuff out" to the public, the media or "outside sources." This suggestion was delivered in what Martin interpreted as a veiled threat. The auditor told him that workers at a factory

in China from which McDonald's was purchasing meat had complained about problems to the media, and that McDonald's had stopped doing business with them. Martin told ILRF, "I understood what he [the auditor] was trying to say is if I complained, they would cut off Taylor Farms."

- After Martin realized that his complaint could lead to job losses, he tried to get information from the auditor about what the process would be, but the auditor did not give him any information. After he was fired, Martin asked the auditor why he had pursued the complaint if there was nothing he could do to help, and the auditor responded that he was only there to take down the complaint and he had to talk to his bosses. No assistance ever came, and Martin came away doubting whether he should have complained in the first place because no one at Taylor Farms seemed to benefit from it.

- Martin told the auditor about harrasment at the facility, and provided as evidence his clean record of infractions in the first three years of employment, and the dramatic increase in dsciplinary actions he experienced after he became active in the unionization effort. Martin said the auditor didn't believe him at first, but called back two days later to confirm that Martin had accurately relayed his history of disciplinary actions.

- The auditor brought up with Martin the issue of undocumented workers at the Taylor Farms Tracy facilities, even though that is not part of his original complaint to McDonald's. Furthermore, at least two workers reported to ILRF that Taylor Farms management had told them the issue of undocumented workers was a problem for McDonald's, and asked them to encourage workers

to not talk about their status with the auditor. So although that was not the violation of McDonald's code that triggered the audit, it appears to be one of the main issues the audit was focused on.

Even if the auditor did not intend the warning about workers in China speaking out about abusive conditions and subsequently being terminated to be a threat, the negative consequence implied became reality only a few months later. If the auditor's claim is accurate, a pattern begins to emerge: when workers in McDonald's global supply chain speak out, they lose their jobs rather than get support to redress the human rights violation they suffer.

3) ANTI-UNION CAMPAIGN FACILITATION

The sections above outlined how Taylor Farms management threatened job loss as a result of the union coming into the facility, and how the union was surreptitiously blamed for the loss of business. The message from management to workers, communicated in mandatory meetings and one-on-one interventions, was that the effort to organize with the Teamsters had led to the loss of McDonald's orders. The McDonald's decision to cut and run thus played into the efforts by Taylor Farms to intimidate workers trying to express their rights to freedom of association.

As noted, both McDonald's and Arche Advisors declined to provide information on the audit process. On its website, it merely states that Arche, "create[s] custom audit programs for Fortune 500 companies to support their code of conduct monitoring programs," and, "Arche Advisors can meet a range of audit program requirements with experience doing audits for SA8000, BSCI [Business Social Compliance Initiative], WRAP [Worldwide Responsible

Accredited Production] and ICTI [The International Council of Toy Industries].”

For remediation, Arche Advisors advertises the following service, “Once supplier audits are completed, factories and suppliers are faced with the question of how to move ahead with remediation efforts. Often times, suppliers and factories do not have access to the right resources to carry out remediation. Arche Advisors can work closely with you and your supply chain partners to understand root causes of the issues identified in audits, recommend appropriate solutions, and help to shape processes and systems for optimum results.”

These descriptions make clear that Arche Advisors bills itself to its clients — corporations — as a flexible, adaptable solution to meet their needs. No where does Arche indicate workers themselves are involved in any stage of the process of monitoring or remediating workplace problems that affect them.

In our investigation, ILRF found no evidence to indicate workers were informed of the audit and its procedures at any point in the process, and no evidence of attempts to remediate any violations found. Because the audit procedures and results are proprietary, we cannot assess the audit itself. However, it is a red flag that among all the workers ILRF interviewed, most of them victims of harassment by management in apparent violation of McDonald’s Code, not a single one was interviewed by the auditor, save the worker who made the original call.

In the Taylor Farms case, the “remediation” solution McDonald’s chose was to end its contract with Taylor Farms. The secrecy surrounding the audit and lack of worker inclusion allowed the process to be used against workers organizing for self-representation. Workers who supported the union reported to ILRF that they were harassed by fellow workers and management regarding the McDonald’s decision. A flyer also circulated around both facilities linking the Teamsters to the loss of business at McDonald’s (*pictured above*). Although this was not an official flyer distributed by management, workers understood it was produced by the A-Team with an implicit approval of Taylor Farms managers. The flyer contained a photo of a Teamsters demonstration altered so it appeared as though it were occurring outside a McDonald’s restaurant, though it actually occurred on a public street with a billboard advertising McDonald’s in the background.

McDonald’s decision to abandon Taylor Farms when problems were exposed rather than work toward a solution not only affected the workers’ organizing effort, but had real impact on the workers who lost their jobs as a result. One worker reported to ILRF that she could not continue working at Taylor Farms because the morning shift she had worked on the McDonald’s line disappeared, and she was unable to work the afternoon shift because of her second job at Denny’s. Since losing the income from the Taylor Farms job, “I’ve struggled,” she said. “It has become very, very hard to pay for my son’s studies and I don’t have enough money for gas. We had no presents at Christmas for the first time this year.”



GOLDEN VENEER

Recommendations

TAYLOR FARMS

The violations of workers' rights documented at Taylor Farms Tracy facilities are severe and require urgent action. ILRF recommends Taylor Farms take the following steps at its Tracy facilities:

- 1) Immediately cease all interference in union organizing activities. Commit in writing to allow the Teamsters reasonable access to the Taylor Farms facilities where workers are attempting to organize. Give workers who do and do not support unionization equal access to resources to reach out to colleagues, including paid time, and stop captive audience meetings about the union.
- 2) Rehire all terminated workers who have open unfair labor practice complaints pending a decision, and end all retaliatory activities against workers who support organizing a union.
- 3) Take disciplinary steps against managers who intimidate workers.
- 4) Issue a statement on Taylor Farms letterhead in English and Spanish confirming that workers have the right to join a union and guaranteeing that workers will not be intimidated or retaliated against.

MCDONALD'S

In light of ongoing anti-union activities at Taylor Farms and the extent of McDonald's involvement, we also recommend McDonald's take the following actions immediately:

- 1) Issue a statement on McDonald's letterhead in English and Spanish explaining the rights of workers in McDonald's supply chain to all core labor standards, including freedom of association and collective bargaining rights, in accordance with its Supplier Code of Conduct and in alignment with international labor conventions.
- 2) Begin discussions with Taylor Farms to re-establish contracts with Taylor Farms on the condition that it agrees to implement the recommendations above.
- 3) Implement a transparent, worker-driven accountability system to verify McDonald's suppliers comply with its code of conduct that includes:
 - a. *Contractual clauses committing the supplier to respect core labor standards as a condition to do business with McDonald's*
 - b. *Worker-based monitoring, including off-site interviews with a representative sample of workers selected randomly without influence from management*
 - c. *A grievance remediation system that includes protection against retaliation, including anonymity for workers interviewed and whistleblowers*
 - d. *Audit findings that are fully available to workers and their trade unions, and that permit workers and their trade unions to appeal findings where necessary with guaranteed protection from retaliation*
 - e. *Regular, public reporting on compliance with national and international laws, and the McDonald's Code of Conduct, when violations are uncovered.*

END NOTES

¹ Jenkins, Rhys, “Corporate Codes of Conduct: Self Regulation in a Global Economy” (Geneva: United Nations Research Institute for Social Development, 2001)

² Each year, Forbes rates the most valuable company brand names. In 2014, Apple topped the list with a brand estimated to be worth \$124 billion. McDonald’s, which is the subject of this report, came in 6th on the list, with an estimated brand value of nearly \$40 billion. See the full list at: <http://www.forbes.com/powerful-brands/list/>. Accessed 3/23/2015.

³ See, for example, the AFL-CIO report, “Responsibility Outsourced: Social Audits, Workplace Certification and Twenty Years of Failure to Protect Worker Rights,” (2013) and Human Rights Watch report, “Without Rules: A Failed Approach to Corporate Accountability.” (2013)

⁴ Claeson, Bjorn, “Emerging from the Tragedies in Bangladesh: A Challenge to Volunteerism in the Global Economy,” Comment and Commentary section, *New Solutions*, Vol. 24(4) 495-509, 2015.

⁵ Information about Taylor Farms found on its website, <http://www.taylorfarms.com/>, and case study by the Harvard Business Review, <https://hbr.org/product/taylor-fresh-foods/an/509008-PDF-ENG#more>. Both accessed 3/23/2015.

⁶ <http://www.aboutmcdonalds.com/mcd/sustainability/sourcing/workplaces-human-rights.html>, accessed 3/23/2015

⁷ Names of Taylor Farms employees interviewed for this report are replaced with pseudonyms to protect their identities.

⁸ <http://arheadvisors.com/content/about-arche>, accessed 5/6/2015

⁹ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712c.html> (accessed March 31, 2015)

¹⁰ See International Labor Organization, “Freedom of Association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO,” Fifth (revised) edition (2006), paras. 35, 67, 514, 638, 682, 772, 780, 781, 786, 787, 803, 810, 837, 839, 858, 863, 864, 865.

¹¹ Digest of decisions and principles of the Freedom of Association

Committee of the Governing Body of the ILO, Fifth (revised) edition, 2006, ILO, par. 786.

¹² UN Guiding Principles on Business and Human Rights, *ibid*, pg. 21.

¹³ Sivan Sadeh, B.A. and Anna Cibils, B.A, “Stories of Injured Workers: A Reflection of Health and Safety in the Food Processing Industry in the Central Valley,” www.wpusa.org/Ohip_TempWorkReflections.pdf.

¹⁴ Catherine Ruckelshaus, Rebecca Smith, Sarah Leberstein and Eunice Cho, *Who’s The Boss: Restoring Accountability for Labor Standards in Outsourced Work*, National Employment Law Project, May 2014

¹⁵ Rory Carroll, “Billion-dollar California salad company exploits undocumented migrants, say workers and Teamsters,” *The Guardian*, www.theguardian.com/us-news/2014/nov/23/billion-dollar-california-salad-company-exploits-undocumented-migrants-say-workers-and-teamsters, November 23, 2014.

¹⁶ Phillip Molnar, “Taylor Farms faces workers’ rights battle,” *Monterey Herald News*, www.montereyherald.com/general-news/20140620/taylor-farms-faces-workers-rights-battle June 20, 2014.

¹⁷ Bill Raden and Gary Cohn, “The Dirty Truth Behind Fast Food Lettuce,” *Huffington Post* in collaboration with *Capital & Main* blog, www.huffingtonpost.com/2014/05/28/taylor-farms-exploited-labor_n_5406238.html, May 28, 2014.

¹⁸ Ruckelshaus, Catherine, Rebecca Smith, Sarah Leberstein and Eunice Cho, National Employment Law Project, “Who’s the Boss: Restoring Accountability for Labor Standards in Outsourced Work,” May 2014 p. 18, <https://www.nelp.org/content/uploads/2015/02/Whos-the-Boss-Restoring-Accountability-Labor-Standards-Outsourced-Work-Report.pdf>, accessed May 29, 2015.

¹⁹ See, e.g, ILO Committee on Freedom of Association Digest, paras. 780, 781, 787, 788.

²⁰ Renner, Richard, Gittes Law Group, “Retaliation for Union

Activity/Collective Action,” 2015, <http://www.gitteslaw.com/employee-rights/unions-retaliation?agree=yes#1>, accessed May 18, 2015.

²¹ Secunda, Paul M., “The Contemporary ‘Fist Inside the Velvet Glove’: Employer Captive Audience Meetings Under the NLRA,” (2010), Faculty Publications, Paper 129, <http://scholarship.law.marquette.edu/facpub/129>, accessed May 18, 2015.

²² Human Rights Watch, “A Strange Case: Violations of Workers’ Freedom of Association in the United States by Multinational Corporations,” September 2010, page 10.

²³ McDonald’s Supplier Code of Conduct, November 2012, http://www.aboutmcdonalds.com/content/dam/AboutMcDonalds/Sustainability/Library/Supplier_Code_of_Conduct.pdf, accessed 4/10/2015

²⁴ While beyond the scope of this investigation, ILRF did confirm several incidents of sexual harassment in the Taylor Farms facilities in Tracy. In two separate incidents, male workers filed reports on behalf of female coworkers who were harassed by their supervisors, and the male workers who filed the complaints were subsequently punished for that action. One worker was hit and called several anti-gay slurs. The worker was threatened with being fired when he reported the incident, and when he tried to follow up, was told there was no record of the complaint. There are other sexual harassment filings with state agencies that show a similar pattern harassment and retaliation against workers who filed sexual harassment complaints



GOLDEN VENEER