



Deep Foods finds itself in a labor dispute

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Cesar Suarez was fired when he reported for work at his employer Deep Foods on August 8 last year. Three of his colleagues were let go before and after that date.

At least, those facts are not disputed.

All other facts related to their firing, including the reasons, have come under a cloud.

With the filing of a complaint by the National Labor Relations Board on behalf of Suarez and his colleagues some weeks ago, the terminations at Deep Foods came to a head. They threaten to snowball into a labor dispute that could have serious implications for the company's business.

At heart, the case consists of two divergent narratives about the company's treatment of its workers.

Fifty-year-old Suarez joined Deep Foods as a cleaner on the production floor in 2010. He worked two jobs and, during his time at the company, reached an "agreement" with his boss to come in later than usual due to the exigencies of his other job.

"In my experience, our job was good," he said. "My (*cleaning*) area was always under control (*well-managed*) and the second shift manager always told me that I was doing a good job."

All that changed when a couple of colleagues approached Suarez in April last year.

According to Suarez, his colleagues wanted him to discuss worker issues with the management. He said they complained about bad working conditions and disrespectful behavior by management.

"It was very common to see people sad and, in some cases, even crying," he said.

Another sticking point was salaries.

"There were people who would get a salary increase of 50 cents on a yearly basis," he said. "Even after working for the company for 11 years they were stuck at wages of \$10 per hour."

Egged on by fellow workers, Suarez and three others contacted unions within New Jersey to organize themselves.

According to the NLRB complaint, Deep Foods tried to bribe Suarez and his colleagues with offers of promotion when it got wind of their actions.

Subsequently, the workers were threatened, put under watch, and made to work in inhospitable conditions, the complaint claims. Eventually, all three were fired on different dates by the company.

Deep Foods' position statements, filed in response to the complaint, however, tell a different story.

They point to Suarez's 'tardy' behavior and past evaluations (which were 'below expect-



Cesar Suarez, one of the Deep Food workers who were fired.

tations' for 'punctuality, discipline, and attendance' in the last five years) as reasons for his firing.

The company also stated that his colleagues were fired for being 'argumentative and aggressive' and for 'submitting false social security data.'

According to Benjamin Feldman, spokesperson, Deep Foods, Francisco Siguerio, the manager responsible for terminating Suarez's employment, started as a cleaner with the company in 1977 and has worked his way up through the ranks.

"He has a keen understanding of, and sympathy for, the circumstances of rank and file employees of Deep Foods," said Feldman. "Any portrayal of him as a hard-nosed member of management simply doesn't fit the facts."

At stake are a number of issues. For starters, the case could have serious implications for Deep Foods' business.

The Retail Wholesale Department Store Union, the union representing Suarez and his colleagues, has ratcheted up pressure on Deep Foods. Three weeks ago, they urged the New Jersey Economic Development to rescind tax breaks for Deep Foods because it violated labor laws.

The company is the 27th largest employer in New Jersey and is eligible for tax credits of up to \$26.9 million.

The company's profitability could also be affected in the long run, if its employees unionize.

A 2009 study by the conservative think tank Heritage Foundation stated that unionized companies report profits that are up to 10 to 15 percent less than that of their non-unionized counterparts.

Another study, this time by the National Bureau of Economic Research, reached similar conclusions and estimated that unionized workers earned an average of 20 percent to 25 percent more as compared to non-union members.

Those studies were for publicly-listed businesses. For Deep Foods, which is categorized as a small business and has global revenues of \$250 million, the costs could be steeper.

The case could also end up tarnishing the Deep Foods brand. With a wide array of packaged food products that line the aisles of most Indian grocery stores, the company is already well-known to Indian Americans, many of whom have already taken to social media to take a stand on the case.

Beyond the community's confines, it has cultivated the image of a family-run enterprise. A 2003 *New York Times* story focused on family dynamics within the business and featured interviews with Bhagwati and Arvind Amin (the company's founders), who recounted the company's humble origins in a car garage. It also had their son and daughter-in-law conducting taste tests for their products.

The complaint's descriptions of difficult working conditions and rude managers could end up tarnishing that reputation.

Ben Townsend and Tom Walsh, both from RWDSU, equate the company's actions with those of a large corporation. "As they grow bigger, they are behaving less like a family company and more like Wal-mart," said Walsh, referring to the Arkansas-based company's history of fighting unions.

A complicated story

The case is a complicated one. Charges have flown thick and fast between the parties.

For example, Suarez claimed that workers received minimal salary increases. But in his own case, he started at \$9 per hour in 2010 and was earning \$13 per hour, when he was fired last year.

Similarly, Townsend said there was widespread support for a union within Deep Foods and Suarez added that he was able to garner signatures from 110 employees within three weeks, while working at Deep Foods. But, it is difficult to determine the accuracy of his statement.

New Jersey labor attorney Stephen Edelstein said the NLRB complaint would have made a mention of support numbers for representation cards (the first step in forming a union), if they were significant. According to him, the support of an adequate majority (roughly about 30 percent of a company's total workers) is necessary to start the unionization process.

For its part, Deep Foods provided statistics to bolster its claim of being a fair company. According to Feldman, the company has a retention rate of 89 percent on average and 25 percent of the company's workforce has stayed with it since inception.

"That a quarter of the company's workforce have stayed with it for more than a decade speaks volumes to the loyalty and trust that the company is able to command among workers," he said.

Townsend from RWDSU said the case has had a "chilling effect" on worker morale and they are afraid of similar repercussions as that of Suarez and his colleagues, if they spoke up or complained.

Indian workers at the Deep Foods facility may add another twist to the case. According to Townsend, Indian workers constitute about a third of the company's workforce and often work for less than their Latino counterparts in the same position.

Suarez further claimed that none of the Indian workers is a manager or a team lead. But the NLRB complaint lists a number of Indian managers as respondents.

Either way, they may tip the case in either party's favor with their support or opposition for a labor union.

The case is scheduled for a hearing March 15.

Edelstein said NLRB filing the complaint on behalf of workers was not unusual. "What is unusual is the speed at which they filed it," he said.

That said, the case could "drag on for as much as a year" he said, due to appeals and counter-appeals.

"What might make a difference to the case is if NLRB can prove that Deep Foods has a history or a consistent pattern of anti-union activity," he added.

The die has been cast.