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10 Cinagro Farms, Inc.

11 STATE OF CALIFORNIA  
12 AGRICULTURAL LABOR RELATIONS BOARD  
13 SALINAS REGIONAL OFFICE

14 In the Matter of:

CASE NO. 2017-CE-008-SAL

15 CINAGRO FARMS, INC.,

RESPONDENT'S ANSWER TO  
COMPLAINT

16 Respondent,

17 And

[TITLE 8 C.C.R. § 20232]

18 MARISOL JIMENEZ,

19 Charging Party.

20 Pursuant to Title 8, California Code of Regulations § 20232, Respondent, Cinagro Farms, Inc.,  
21 files its Answer in the above-entitled matter.

22 1. Respondent admits the allegations contained in Paragraphs 1, 2, 3, 4, 7, 8, 9 and  
23 10, inclusive, of the Complaint.

24 2. Respondent denies, in every respect, all of the allegations contained in Paragraphs  
25 5, 6 and 11 through 40, inclusive.

26 3. Respondent further denies, in every respect, all of the remedies sought in the  
27 Complaint's "Prayer for Relief", Sections "A" through "H", inclusive, as the Charging Parties  
28 were not subjected to any form of alleged discrimination or retaliation in violation of Labor Code  
Sections 1152 and 1153(a) of the ALRA.

1 **AFFIRMATIVE DEFENSES**

2 **FIRST AFFIRMATIVE DEFENSE**

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4 4. As and for a First and Separate Alternative Affirmative Defense to the allegations  
5 contained the First and Second Causes of Action in the Complaint, the Complaint fails to state  
6 facts sufficient to constitute lawful causes of action against Respondent in violation of the Act.

7 **SECOND AFFIRMATIVE DEFENSE**

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9 5. As and for a Second and Separate Alternative Affirmative Defense to the  
10 allegations contained in the First and Second Causes of Action in the Complaint, Respondent  
11 contends that the Causes of Action fail to set forth a legal basis upon which relief may be granted  
12 in that the Charging Party and her fellow crew members voluntarily quit their employment  
13 because their farm labor contractor employer failed to show up for work and thereby left the  
14 Charging Parties without supervision.

15 **THIRD AFFIRMATIVE DEFENSE**

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17 6. As and for a Third and Separate Alternative Affirmative Defense to the  
18 allegations set forth in the First and Second Causes of Action in the Complaint, Respondent  
19 asserts that the General Counsel's investigation which covered March 13, 2017, until issuance of  
20 the Complaint on June 10, 2020, [over three years and three months] denies Respondent  
21 Procedural and Substantive Due Process in that many of the witnesses are no longer available to  
22 assist Respondent in its legal defenses to the Complaint. Furthermore, such a substantial delay in  
23 time prejudices Respondent in that the memories and recollections of such witnesses (if found)  
24 have faded, thereby preventing Respondent the benefit of clear and material facts for its defenses.

25 **FOURTH AFFIRMATIVE DEFENSE**

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27 7. As and for a Fourth and Separate Alternative Affirmative Defense to the  
28

1 allegations in the First and Second Causes of Action in the Complaint, Respondent asserts that  
2 there is no causal connection between the alleged acts of protected concerted activity and the  
3 alleged termination of his employment.  
4

5 **FIFTH AFFIRMATIVE DEFENSE**

6 8. As and for a Fifth and Separate Alternative Affirmative Defense to the allegations  
7 set forth in the First and Second Causes of Action in the Complaint, Respondent asserts that  
8 Respondent would have taken the same actions notwithstanding the alleged protected concerted  
9 activities. [Gerawan Farming, Inc. (2019) 45 ALRB No. 3, at page 12 (Slip Opinion), citing to  
10 H&R Gunland Ranches (2013) 39 ALRB No. 21 and South Lakes Dairy Farm (2013) 39 ALRB  
11 No. 1, at ALJ Dec., p. 45].  
12

13 **WHEREFORE**, the Respondent respectfully submits that Unfair Labor Practice Charge  
14 2017-CE-008-SAL should be dismissed with prejudice and that no remedy be obtained by the  
15 Charging Party by way of the Complaint.  
16

17 DATED: June 16, 2020

18 Respectfully submitted,

19  
20 BY: 

21 Robert P. Roy  
22 Attorney for Respondent  
23 Cinagro Farms, Inc.  
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1 **PROOF OF SERVICE**

2 I, Aggie Salanoa, declare as follows:

3 I am a permanent resident of the United States, employed in the County of Ventura, State  
4 of California. I am over the age of 18 years and not a party to the within action; my business  
5 address is: 916 W. Ventura Blvd., Camarillo, CA 93010.

6 On June 16, 2020, I served the attached:

7 **RESPONDENT’S ANSWER TO COMPLAINT [TITLE 8 C.C.R. § 20232]**  
8 **[Case No. 2017-CE-008-SAL]**

9 **By Electronic File:** The above referenced documents were “e-filed” today to the following  
10 parties at the listed e-file address; and

11 **By Certified Mail:** The above-referenced documents were mailed to the specified parties in said  
12 action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully  
13 prepaid, in the United States mail at Camarillo, California; and

14 **By Electronic Mail:** The above-referenced documents were e-mailed, as noted, to the following  
15 parties at the listed e-mail addresses.

16 **DISTRIBUTION LIST**

17 Executive Secretary 18 Agricultural Labor Relations Board 19 1325 J Street, Suite 1900 20 Sacramento CA 95814 21 E-Mail: <a href="mailto:Efile@alrb.ca.gov">Efile@alrb.ca.gov</a>	22 Monica De la Hoya, Assistant General 23 Counsel 24 Agricultural Labor Relations Board 25 1901 N. Rice Avenue, Suite 300 26 Oxnard CA 93030 27 E-Mail: <a href="mailto:monica.delahoya@alrb.ca.gov">monica.delahoya@alrb.ca.gov</a>
28 Julia Montgomery, General Counsel Agricultural Labor Relations Board 1325 J Street, Suite 1900 Sacramento CA 95814 E-Mail: <a href="mailto:julia.montgomery@alrb.ca.gov">julia.montgomery@alrb.ca.gov</a>	Tony Dighera Cinagro Farms, Inc. 1547 Riverside Avenue Fillmore, CA 93015 E-Mail: <a href="mailto:tdighera@yahoo.com">tdighera@yahoo.com</a>
Jessica Arciniega, Assistant General Counsel Agricultural Labor Relations Board 1901 N. Rice Avenue, Suite 300 Oxnard CA 93030 E-Mail: <a href="mailto:jessica.arciniega@alrb.ca.gov">jessica.arciniega@alrb.ca.gov</a>	Marisol Jimenez 1201 W. Gonzalez Rd., Apt. 30 Oxnard, CA 93033 Certified Mail # 70150640000198015902

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 16, 2020, at Camarillo, California.



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Aggie Salanoa