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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 FIRST
AMENDED COMPLAINT

16 Respondent,

17 And

[TITLE 8 C.C.R. § 20230]

18 MARISOL JIMENEZ,

19 Charging Party.

20 Pursuant to Title 8, California Code of Regulations § 20232, Respondent, Cinagro Farms, Inc.,
21 files its Answer to the General Counsel's First Amended Complaint in the above-entitled matter.

22 1. Respondent admits the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9
23 and 10, inclusive, of the Complaint.

24 2. Respondent denies, in every respect, all of the allegations contained in Paragraphs
25 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 on
13 March 4, 2017.

14 **THIRD AFFIRMATIVE DEFENSE**

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

24 **FOURTH AFFIRMATIVE DEFENSE**

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26 7. As and for a Fourth and Separate Alternative Affirmative Defense to the
27 allegations in the First and Second Causes of Action in the Complaint, Respondent asserts that
28

1 there is no causal connection between the alleged acts of protected concerted activity and the
2 alleged termination of her employment, as the Charging Party and five of her fellow workers
3 voluntarily quit their 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: February 11, 2021

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 February 11, 2021, I served the attached:

7 **RESPONDENT’S ANSWER TO FIRST AMENDED COMPLAINT**

8 **[TITLE 8 C.C.R. § 20230]**

9 **[Case No. 2017-CE-008-SAL]**

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

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

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

17 **DISTRIBUTION LIST**

18 Executive Secretary 19 Agricultural Labor Relations Board 1325 J Street, Suite 1900 Sacramento CA 95814 E-Mail: Efile@alrb.ca.gov	Monica De la Hoya, Assistant General Counsel Agricultural Labor Relations Board 1901 N. Rice Avenue, Suite 300 Oxnard CA 93030 E-Mail: monica.delahoya@alrb.ca.gov
20 Julia Montgomery, General Counsel 21 Agricultural Labor Relations Board 1325 J Street, Suite 1900 22 Sacramento CA 95814 E-Mail: julia.montgomery@alrb.ca.gov	Tony Dighera Cinagro Farms, Inc. 1547 Riverside Avenue Fillmore, CA 93015 E-Mail: tdighera@yahoo.com
23 Jessica Arciniega, Assistant General Counsel 24 Agricultural Labor Relations Board 1901 N. Rice Avenue, Suite 300 25 Oxnard CA 93030 E-Mail: jessica.arciniega@alrb.ca.gov	Marisol Jimenez 1201 W. Gonzalez Rd., Apt. 30 Oxnard, CA 93033 Certified Mail # 70150640000198015964

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

Executed on February 11, 2021, at Camarillo, California.



Aggie Salanoa