

FORM LM-20

AGREEMENT AND ACTIVITIES REPORT

Form approved
Office of Management
and Budget
No. 1215-0188
Expires 11-30-2006



This report is mandatory under P.L. 86-257, as amended. Failure to comply may result in criminal prosecution, fines, or civil penalties as provided by 29 U.S.C. 439 or 440. Required of persons, including Labor Relations Consultants and Other Individuals and Organizations, Under Section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended. (LMRDA)

READ THE INSTRUCTIONS CAREFULLY BEFORE PREPARING THIS REPORT.

438413

1. File Number: C- 00633

Person Filing

2. Name and mailing address (include ZIP Code):

Name Michael D Penn

Title Partner

Organization The Crossroads Group

P.O. Box, Bldg., Room No., if any

Street 63 Via Pico Plaza, Suite 505

City San Clemente

State California

ZIP Code + 4 92672

3. Any other address where records necessary to verify this report are kept:

Name

Title

Organization

P.O. Box, Bldg., Room No., if any

Street

City

State

ZIP Code + 4

4. Date fiscal year ends:

Dec / 31

5. Type of person:

a. ☐ Individual b. ☒ Partnership c. ☐ Corporation d. ☐ Other (Specify):

Nature of Agreement or Arrangement

6. Full name and address of employer with whom made (include ZIP Code):

Name Laurence Hickey

Organization Fresh Direct, LLC

Trade Name, if any

P.O. Box, Bldg., Room No., if any

Street 23-30 Borden Avenue

City Long Island City

State New York

ZIP Code + 4 11101

7. Date entered into:

9 / 28 / 2010

8. Name of person(s) through whom made:

Name

Name

Name

Name

Name

Signatures

Each of the undersigned declares, under penalty of perjury and other applicable penalties of law, that all of the information submitted in this report (including the information contained in any accompanying documents) has been examined by the signatory and is, to the best of the undersigned's knowledge and belief, true, correct, and complete. (See Section VII on penalties in the instructions.)

13. Signed Michael Dana Penn

President
(If other title, see
instructions)

Title Other (Specify)

Partner

14. Signed [Signature]

Treasurer
(If other title, see
instructions)

Title Other (Specify)

Partner

On 10/24/2010 818-999-5632

Date

Telephone Number

On 10/24/2010 949-248-0884

Date

Telephone Number

9. Check the appropriate box to indicate whether an object of the activities undertaken, is directly or indirectly:

- a. ☒ To persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing.
- b. ☐ To supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding.

10. Terms and conditions (Explain in detail; see instructions. Written agreements must be attached.):

Payment on a fee-for-service basis at the hourly rate of \$325.00 plus reasonable and customary expenses

Specific Activities to be Performed

11. For each activity, separately list in detail the information required (See instructions):

a. Nature of activity:

To advise employees of their Section 7 rights and the potential disadvantages of third-party representation

11.b. Period during which performed:

09/20/10 to the Present

11.c. Extent performed:

Ongoing

11.d. Name and address through whom performed:

Name Ricardo Pasalagua

Organization The Crossroads Group

P.O. Box, Bldg., Room No., if any

Street 63 Via Pico Plaza, Suite 505

City San Clemente

State California ZIP Code + 4 92672

Additional Name and address through whom performed, if any:

Name

Organization

P.O. Box, Bldg., Room No., if any

Street

City

State ZIP Code + 4

12.a. Identify subject groups of employees:

All non-supervisory Maintenance Department employees in the employer's Long Island City facility

12.b. Identify subject labor organizations:

IBT Local 805



THE CROSSROADS GROUP
Labor Relations Consultants

Michael D. Penn, Partner
818.999.5632
mpenn@tcgconsultants.com

Steven A. Beyer, Partner
949.248.0884
sbeyer@tcgconsultants.com

Personal & Confidential

September 27, 2010

Mr. Laurence Hickey, Senior Vice President, Business Affairs
Fresh Direct, LLC
23-30 Borden Avenue
Long Island City, NY 11101

Re: Agreement for Professional Services

Dear Mr. Hickey:

In accordance with our conversation and mutual agreements, this letter will confirm that Fresh Direct, LLC (the "Client") has retained The Crossroads Group Labor Relations Consultants (the "Consultant") regarding general personnel and labor relations activities related to the National Labor Relations Board election campaign at the Client's facility in New York commencing on September 20, 2010.

Our fees are charged on an hourly basis in minimum units of a quarter of an hour for all time actually expended on your behalf. You will receive the services of our Labor Relations Consultant, Ricardo Pasalagua, which will be billed at the Senior Associate rate of \$325.00 per hour. Any other Senior Associates requested by the Client will be billed at the same rate. Partner services (for Michael Penn or Steve Beyer) requested by the Client are billed at the rate of \$375.00 per hour. Clients are billed at the hourly rate for all time expended on their behalf, plus one-half travel time (6 hours each way to and from Client's facility at one-half of the normal billing rate) and reasonable and customary out-of-pocket expenses. Consultant will work on Client's behalf during travel time in order to minimize other billing for planning and preparation.

We agree to send you statements clearly showing the basis for our fees and charges by detailing the services rendered and costs incurred on a weekly basis. All fees and expenses will be paid net thirty (30) from the date of invoice. The Client agrees to pay the statement promptly and in full, understanding that if payment is not made in full within thirty (30) days of the statement date, the Client's account may be considered past due and an interest charge may be added to the outstanding balance in an amount equal to one and one-half percent (1.5%) per month.

Consultant is retained to provide independent and objective professional judgment and recommendations; accordingly, a difference of opinion on a question of professional judgment shall not excuse the Client from fees and costs incurred in the collection of any outstanding accounts receivable.



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Our firm has always operated on the basis that we will deliver the best possible services in a timely fashion and at a reasonable price. In return, we request that upon receipt of our statements, you review the statement to determine if you have any questions or comments regarding them. If so, please call me directly. Furthermore, we reserve the right to withdraw as your Consultant if you fail to pay our statements and other bills in a timely manner.

If Consultant is requested by Client, or if as a consequence of an assignment Consultant is required by judicial or administrative process, to participate, appear, or testify in anticipation of, or during legal or dispute resolution proceedings of any kind during the period Consultant is providing services or thereafter, Consultant will reasonably comply with any such request or requirement based on advice of legal counsel. In the event that Consultant does so participate in any manner, the Client shall pay to Consultant all professional fees and other fees of Consultant in effect as well as the reasonable cost and expenses, including attorneys' fees, incurred in anticipation and resulting from such proceedings. These fees and expenses are in addition to any fees paid or owed for services performed or to be performed.

Any controversy or claim arising out of or relating to this Agreement, its validity, or the breach thereof, shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA). A single neutral arbitrator shall be appointed in accordance with the AAA Rules to resolve the dispute.

The arbitrator shall be an attorney who is knowledgeable in business and labor laws, and who is experienced in labor relations and union organizing activities involving employers. The arbitrator shall award to the prevailing party all its costs and fees, including AAA filing and administrative fees and attorneys' fees.

Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Should any party refuse to arbitrate or file a court action regarding a claim, which is subject to arbitration under this Agreement, the other party shall be entitled to recover its costs and reasonable attorneys' fees in enforcing this arbitration agreement in court.

During the course of our representation, we will endeavor to keep you fully advised as to the status and progress of this matter, including our view of your rights and potential liabilities or exposure, and our recommendation as to an appropriate course of action in view of the facts, circumstances and issues involved.

However, we must emphasize that our firm has not made, and cannot make any representations or guarantees regarding the successful outcome of any matter or the actual amount of any fees or costs you will incur. Often, the results in a matter, and the costs and expenses are controlled by external factors beyond our control, including the factual circumstances, course of the campaign or negotiations, etc.



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We will send copies of all substantive correspondence and other documents generated during this project, and I ask that you call me at any time should you wish to discuss our invoices, or any other aspect of this matter.

It is understood and agreed that Client is not committing to any fixed number of hours of engagement, and hours expended by Consultant will be based upon mutual agreement of the parties. Client agrees to notify Consultant upon receipt of invoice if there are any questions or concerns over hours billed. Client and Consultant also understand and agree that either party may terminate this agreement upon written notice to the other.

If the terms and conditions of this letter are satisfactory to you, please evidence your consent to such terms and conditions by signing this letter and returning it to me by e-mail or fax at (818) 999-5630.

This is a final agreement and this agreement supersedes any other oral or written representations by either the Client or Consultant. This agreement does not, however, supersede or replace the non-disclosure agreement between the parties.

We very much appreciate the opportunity to work for you. We will provide you with our best professional efforts as we endeavor to help you achieve a successful outcome on this project.

Respectfully,

Michael Dana Penn
Partner

The foregoing fee agreement letter has been read and its terms are hereby agreed to and accepted this 20th day of September, 2010.

Fresh Direct, LLC

By: L. L. Hickey Title: Senior Vice President
Date: 09/20/10