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Collective Bargaining Agreements

10-1-1989

Retail supermarkets and Retail, Wholesale, and Chain Store Food Employees Union, AFL-CIO, Local 338 (1989)

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Retail supermarkets and Retail, Wholesale, and Chain Store Food Employees Union, AFL-CIO, Local 338 (1989)

Location

New York, NY

Effective Date

10-1-1989

Expiration Date

9-30-1992

Number of Workers

16500

Employer

No employer specified

Union

Retail, Wholesale, and Chain Store Food Employees Union

Union Local

338

NAICS

44

Sector

P

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COLLECTIVE BARGAINING AGREEMENT

RETAIL, WHOLESALE & CHAIN STORE FOOD EMPLOYEES UNION LOCAL 338



10/89 -
9/92

COLLECTIVE BARGAINING AGREEMENT

RETAIL, WHOLESALE & CHAIN
STORE FOOD EMPLOYEES UNION
LOCAL 338



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AGREEMENT entered into as of **between RETAIL, WHOLESALE, & CHAIN STORE FOOD EMPLOYEES UNION, LOCAL 338**, affiliated with the Retail, Wholesale and Department Store Union, AFL-CIO (the Union), and

(Name of Employer)

(Address)

(Borough, City)

(the Employer), **WHEREIN IT IS AGREED AS FOLLOWS:**

ARTICLE I

Definition and Coverage

(a) This agreement covers, and the term "employee" or "employees" as herein used includes all of the Employer's present and future full time and part time employees (other than store managers, butchers and meat wrappers) employed in all departments in all of the present future supermarkets and stores operated by the Employer in the City of New York and the State of New York.

(b) The term "supermarket" or "supermarkets," "store" or "stores" as herein used includes supermarkets, stores, shops, concessions, leased departments and establishments contained herein.

(c) The term "full time employee" as herein used means an employee working 30 hours or more within the regular work week.

(d) The term "part time employee" shall mean an employee working less than 30 hours within the regular work week.

(e) The term "employees" includes both full time and part time employees, except where otherwise expressly provided.

(f) The term "regular employee" means an employee who has completed his/her trial period.

ARTICLE II

Union Recognition and Union Shop

(a) The employer recognizes the Union as the exclusive collective bargaining representative for all the Employer's employees covered by this agreement.

(b) All present full time and part time employees who are members in good standing in the Union, shall, as a condition of continued employment, maintain membership in good standing in the Union during the life of this agreement through regular payments to the Union of the periodic dues and the initiation fees uniformly required as a condition of acquiring and retaining membership. All new full time and part time employees, and all present full time and part time employees who are not members in good standing in the Union, shall, as a condition of continued employment, join the Union thirty days after the date of their employment or the effective date of this agreement or the date of the execution of this agreement, whichever is later, except that part time employees shall not be required to join the Union until they have completed the trial period and shall thereafter maintain membership in good standing in the Union until they have completed the trial period and shall thereafter maintain membership in good standing in the Union during the life of this agreement through regular payments to the Union of the periodic dues and initiation fees uniformly required as a condition of acquiring and retaining membership. The Union shall make membership in the Union available to all full time and part time employees covered by this agreement on the same terms and conditions as are generally applicable to other members of the Union. Upon receipt of a written notice from the Union to the Employer

that a full time or part time employee is not a member in good standing in the Union, as herein provided, such employee shall forthwith be discharged. Membership in good standing in the Union shall not be construed in violation of the provisions of applicable law.

ARTICLE III

Union Card

The Union shall lend to the Employer a Union Store Card issued by the Union which shall remain the Union's property. The termination of this Agreement or any breach or violation of any of the provisions of this Agreement by the Employer shall be sufficient cause for the removal of said Card by the Union.

ARTICLE IV

Trial Period and Tenure of Employment

(a) Full time employees not previously employed by the Employer shall be employed on trial for a period of 30 calendar days. However, when a new store is opened by the Employer and for a period of 60 days from the date of such opening, the trial period shall be 60 days from the respective dates of hire for all new full time employees hired for such store; provided further, however, that after such store has been open for 60 days, any employee therein still on trial and any employee thereafter hired shall serve no more than a total aggregate trial period of 30 days, including days of work prior to the time the new store was open for 60 days. During such trial period, such employee on trial may be dismissed without notice or cause. Upon the expiration of such trial period or upon notice to the Union by the Employer to that effect prior to the expiration of such trial period, such newly employed employees shall automatically become and be deemed to be regular full time employees.

(b) Part-time employees shall be on trial until they have been employed thirty (30) working days. When a new store is opened, part-time employees who have not completed their trial period shall be subject to the same requirements as above stated in paragraph (a) for full-time employees, but in addition, their trial period shall not be deemed completed until they have been employed thirty (30) working days.

(c) The Employer shall promptly notify the Union in writing when it has hired employees, furnishing the names and social security numbers of the employees hired and the date of their hiring.

(d) Regular full time employees working 40 hours weekly who are so employed at the date of the execution of this Agreement or who are so hired after the date of the execution of this Agreement shall be guaranteed 40 hours' work weekly during the entire term of this Agreement, subject, however, to the provisions of this Article.

(e) The work week of regular full time employees working 30 hours or more weekly shall not be reduced without prior written notice to and the prior consent of the Union. The provisions of this paragraph shall not apply to those employees covered by paragraph (d) of this Article.

Regular part-time employees except those who are available on a limited basis such as Friday night or Saturday, will be scheduled for no less than (16) hours on a regular and continuing basis and further provided that they are available to work the Employer's schedule and there is no drop in business.

(f) In the event of a continued decline in business or a continued lack of work and in the event the Employer is only employing regular full time and regular part time employees, the Employer may, but only after one week's prior written notice to the Union, lay off employees in the following order:

1. Regular part time employees.
2. Regular full time employees working 30 hours or more and less than 40 hours weekly.
3. Regular full time employees working 40 hours weekly; and subject to the following provisions:

- A. Seniority, for purposes of layoff, shall date from the date of hire.
- B. Layoff of regular full time employees shall be made within job classifications in department and on the basis of seniority.
 - (i) Seniority for purposes of layoff, shall be computed on the basis of total length of full time employment within the job classification in the department in the Employer's stores, as well as length of full time employment within such classifications in such department with prior employers whose business or stores have been purchased or in any way acquired, in whole or in part, by the Employers.
 - (ii) Full time employees who have been transferred or promoted to another job classification shall retain seniority in their former job classifications in their former departments, and, if subject to such layoffs, shall be retransferred to their former job classifications and departments in accordance with their seniority in such former job classifications and departments.

- C. Layoff of regular part time employees shall be made on the basis of seniority. Seniority of regular part time employees shall be computed on the basis of total length of employment in the Employer's stores within a particular borough or county, as well as length of employment in stores within the particular borough or county with prior employers whose business or stores have been purchased or in any way acquired, in whole or in part, by the employer.
- D. The Employer shall give the regular employees affected one week's prior written notification of such layoff, and they shall not be laid off until the expiration of such one week period.
- E. In the case of a store closing, paragraph (F) of this Article shall not apply but in such case the Employer may lay off, after one week's prior notice to the Union, in proper seniority order, within classifications, the same number of regular full time employees and the same number of regular part time employees as employed in the store being closed.
- F. The Employer shall recall laid-off regular employees before hiring new employees. The provisions hereof governing layoffs shall apply to recalls, except that the Employer shall recall each of the laid-off employees, who shall retain their seniority for 6 months from the date of their layoff, in the inverse order of their layoff. Any employee who fails to report to work within one week after the date of mail-

ing by registered mail of written notice of recall, except for justifiable excuse, shall be deemed to have waived his/her right to reemployment. Such notice shall be so sent to the last address on file with the Employer.

(g) Before completion of their trial period new employees may be dismissed without notice or cause and without consent of a representative of the Union. No regular employee shall be discharged except for just cause. In the event that a duly authorized representative of the Union shall not consent to the discharge the dispute with respect to such discharge shall be submitted to arbitration and final and binding decision by the New York State Mediation Board or the American Arbitration Association at the option of the Union.

(h) The Employer may summarily discharge an employee for drinking on the job, sale of drugs, or use of drugs on the job other than for medicinal purposes, dishonesty or physical assault on the job, willful sabotage of company property, subject, however, to the right to arbitrate hereunder whether such discharge was for just cause. The arbitrator shall be empowered to render such award as shall be just and reasonable in the premises.

(i) If an employee is suspended by the Employer, the Employer's Labor Relations Director and the Union must meet within 3 work days from the time of the suspension to discuss the suspension. If no agreement is reached, the dispute may then be submitted to arbitration hereunder by either the Employer or the Union. Should the arbitrator decide that the suspension was not for just cause or that the length of suspension was too long, the Employer shall pay the employee for lost time as determined by the arbitrator.

(j) Upon termination of employment of any permanent full time employee, the Employer shall replace such employee forthwith with a new full time employee. This paragraph shall not apply in cases of layoff for lack of business or store closings hereunder.

(k) No employee shall be discharged for refusing to cross a legal picket line in front of his/her Employer's stores established by another Labor organization in a primary Labor dispute with the Employer or a subsidiary or an affiliate thereof, and the Union shall not be liable therefor.

ARTICLE V
Hours of Work

(a) The maximum regular weekly hours of work for all employees shall be forty hours, divided into a work week of five days, Monday through Saturday.

(b) The maximum regular daily hours of work for all employees shall be eight hours.

(c) Work performed on Sunday shall not be part of the regular work week. The Employer agrees to give preference for Sunday work to regular employees covered by this Agreement.

(d) The hours of work of all employees shall be continuous.

(e) Any Employee working at least eight hours on any day shall be entitled to one continuous hour for meals on such day. Any employee working at least six hours but less than eight hours on any day shall be entitled to one continuous meal period of forty-five minutes of such day. Such meal times shall not be considered working hours.

(f) All full time employees shall be given two 15-minute rest periods daily, and all part-time employees shall be given a 15 minute rest period for each 4 hours worked each day, but in no event more than 2 such periods in any such day. Such rest periods shall be considered working time.

(g) Full time employees working a 40-hour 5-day week may be required by the Employer to work a sixth day during the Monday through Saturday week; such sixth day must be an 8-hour work day. Employees shall work overtime as required by the Employer. The Employer shall give the employees affected 24 hours prior notice of work required on the sixth day of the week and 4 hours' prior notice of all overtime work required on the same day.

(h) Any part-time employee who works on a Sunday or holiday shall be scheduled for four (4) hours work provided the employee is available to work.

ARTICLE VI

Wages

The wage and related provisions for all employees covered by this Agreement are set forth in Appendix "A" hereto annexed and made a part hereof.

ARTICLE VII

Overtime and Premium Pay

(a) Any work in excess of 8 hours in any day, or 40 hours in any week, and any work on Sunday or on any day of rest or on any holiday as herein provided, is and shall be considered overtime work. Overtime work shall be compensated at the rate of one and one-half times the regular hourly wage. On the holidays provided hereunder, such overtime pay shall be in addition to the pay herein provided for such holidays. Sunday work shall be compensated at twice the regular hourly rate of pay for all present regular Full and Part time employees. Part time employees hired on or after January 1, 1987, shall receive one and one-half (1½) times their regular rate of pay for work performed on Sundays. Full time employees hired on or after January 1, 1990, shall receive one and one-half (1½) times their regular rate of pay for work performed on Sundays.

Full time employees paid double (2) time for Sunday work, if converted to Part time status, shall continue to be paid double (2) time. Part time employees paid double (2) time for Sunday work, if converted to Full time status, shall continue to be paid double time. Part time employees paid time and one-half (1½) for Sunday work, if converted to Full time status prior to January 1, 1990, shall be paid double time. Part time employees paid time and one-half (1½) for Sunday work, if converted to Full time after January 1, 1990, shall continue to be paid time and one-half (1½) for Sunday work. Full time employees hired on or after January 1, 1990, who receive time and one-half (1½) for Sunday work, if converted to Part time status, shall continue to be paid time and one-half (1½) for Sunday work.

All regular Full time and regular Part time employees shall be given a reasonable opportunity to work on Sundays on a rotating basis.

(b) Full time employees, other than assistant managers and department heads, reporting for work at 4 P.M. or later shall receive therefore, in addition to their regular hourly wage, premium pay of 10% of their regular hourly wage. Such premium pay shall be deemed part of their regular hourly wage with respect to applicable hours hereunder in calculation of overtime pay under the provisions of this Agreement. Such premium pay shall be paid only for the weeks when such employees work such late shift. There shall be no change from such late work shift during the work week. No employee shall be changed to such late shift without consent of the UNION.

(c) Full time employees (other than assistant managers, department heads and employees covered by paragraph (b) of this Article) reporting for work on any day before 4 P.M., if required to work after 7 P.M. on any day, shall receive, in addition to their regular hourly wage, premium pay of \$1.00 per hour for all work after 7 P.M. on any day, except that for all hours worked in excess of 8 hours on any day, they shall be compensated at the overtime rate of one and one half times their regular hourly wage.

(d) All full time clerks hired after October 1, 1986, other than those working on a regular night pack out crew who are assigned to a late shift shall be paid \$2.00 per shift premium in addition to their regular pay. A late shift is one that comences at 12:00 noon or later.

(e) Regular part time employees working on night pack-out crew to receive 10% night differential.

(f) Night differentials of 10% for eligible full time or part time employees will be included in sick pay, unused sick pay, holiday pay, personal pay, and vacation pay.

(g) There shall be no pyramiding or duplication of overtime and/or premium pay.

ARTICLE VIII

Holidays

(a) The following holidays shall be paid holidays for all regular full time employees, regardless of length of employment, and all regular part time employees employed for 3 continuous months, or longer:

New Years Day
Christmas Day
Presidential Election Day
Thanksgiving Day

Independence Day
Memorial Day
Labor Day

(b) All regular full-time employees shall receive six additional paid personal holidays in each calendar year so that they shall receive twelve paid holidays in each calendar year, and 13 paid holidays in years in which there is a Presidential Election. Regular full time employees with less than one year's employment during any calendar year shall receive pro rata paid holidays based upon actual length of employment. One of the paid personal holidays shall be the employee's birthday. In the event that any said employee's birthday falls on a Sunday, or his/her scheduled day off, or on one of the holidays listed in paragraph (a) of this Article, then said employee will be entitled to his/her scheduled work day immediately following or on a day mutually agreed to by the Employer and the Union. Regular full time employees shall be given 2 of such personal holidays during the first 6 months of the calendar year and 2 of such personal holidays during the second 6 months of the calendar year. The remaining personal holiday may be taken any time during the calendar year. These holidays may be taken at the employee's option, provided that 2 week's advance notice is given to the Employer and that the personal holiday selected is not during a week in which another paid holiday occurs, and provided further that the Employer may refuse to grant the personal holiday on the date requested by such employee if the operation of the store will be disrupted. If the employee elects to observe a religious holiday, it will be counted as one of his/her personal holidays. An employee who selects a religious holiday shall be given preference for that day off.

(c) Regular part time employees employed for 3 continuous months or longer shall be paid 4 hours' pay for each of the holidays listed in paragraph (a) of this Article thereafter occurring. Regular part time employees employed for 7 continuous months or longer shall thereafter receive three additional paid personal holidays yearly with four hours pay for each such day. Part time employees employed for less than seven continuous months shall not be entitled to any personal holidays. One of the paid personal holidays shall be the

employee's birthday. In the event that any said employee's birthday falls on a Sunday, or his/her scheduled day off, or on one of the holidays listed in paragraph (a) of this Article, then said employee will be entitled to his/her birthday holiday on the scheduled work day immediately following or on a day mutually agreed to by the Employer and the Union. Of the other two personal holidays to which a part time employee may be entitled, one shall be granted in the first 6 months of the calendar year and one shall be granted in the second six months of the calendar year. Subject to the foregoing, personal holidays may be taken at the employee's option, provided that 2 week's advance notice to the Employer is given, the personal holiday is not in a week in which another holiday occurs, and provided further that the Employer may refuse to grant the personal holiday on the date requested by the employee if the operation of the store will be disrupted.

(d) In order to qualify for holiday pay, employees shall work their regularly scheduled day before the holiday and shall also work their regularly scheduled day following the holiday except for excused absence on either or both of such days, which excuse shall not be unreasonably denied.

(e) All hours worked by full time employees in excess of 32 hours during a week in which one of the personal or legal holidays fall will be paid for at the rate of one and one-half times the regular hourly rate.

(f) In the event that any full time employee leaves his/her position or is discharged or laid off without having received his/her pro rata holidays for any year, then, nevertheless, such employee shall receive the balance of his/her pro rata holiday pay at the time he/she either leaves his/her position or is discharged or laid off and shall receive personal holiday pay pro rated on the basis of one day for each two months work.

ARTICLE IX

Vacations

(a) Full time employees employed for six months or more, but less than one year, prior to September 30th in any year of this Agreement, shall receive one continuous week's vacation for six months' employment and one additional day's vacation for each month's employment in excess of six months, but not exceeding two week's vacation, with full pay in advance in each such year of this Agreement.

(b) Full time employees employed for one year or more prior to September 30th in any year of this Agreement, shall receive two continuous weeks' vacation with full pay in advance in each year of this Agreement.

(c) Full time employees employed for seven years or more prior to September 30th in any year of this Agreement, shall receive three continuous weeks' vacation, with full pay in advance in each year of this Agreement.

(d) Full time employees employed for ten years or more prior to September 30th in any year of this Agreement, shall receive four weeks' vacation with full pay in advance in each such year of this Agreement.

(e) Effective 1/1/84 full time employees employed for twenty five (25) years or more prior to September 30th in any year of this Agreement, shall receive five week's vacation with full pay in advance in each such year of this Agreement.

(f) Full time employees working continuously a six day work week shall be paid vacation pay computed on the basis of their weekly earnings for such 6-day work week.

(g) Regular full time employees regularly scheduled and working less than 40 hours weekly at any time during the year immediately prior to their vacation shall have their vacation pay based upon their average weekly straight time hours worked during such year.

(h) Regular part time employees working 800 hours or more in any yearly period prior to September 30th, shall receive 25 hours vacation pay in advance in each subsequent year of this Agreement. If such employee also worked 800 hours or more in any subsequent yearly period prior to September 30th, he/she shall receive 50 hours vacation pay in advance in each subsequent year of this Agreement. If such employee also works 800 hours or more in 7 yearly periods prior to September 30th, he/she shall receive 75 hours vacation pay in advance in each subsequent year of this Agreement. If such employee also works 800 hours or more in 10 yearly periods prior to September 30th, he/she shall receive 100 hours vacation pay in advance in each subsequent year of this Agreement. If such employee also works 800 hours or more in 25 yearly periods prior to September 30th, he/she receive 125 hours vacation pay in advance in each subsequent year of this Agreement. A regular part time employee who has

been employed for 1 year or more having less than the required 800 hours shall receive a pro rata vacation; provided the employee has not terminated before May 1st.

(i) For the purpose of computing an employee's length of employment hereunder, he/she shall be credited with his/her length of employment with the Employer, as well as with his/her length of employment with his/her prior employers whose business or stores have been purchased or in any way acquired, in whole or in part, directly or indirectly, by the Employer.

(j) Vacations shall be given during June, July, August or September of each year of this Agreement; except that in the case of employees presently entitled to 4 or 5 weeks' vacation hereunder, three weeks of such vacation shall be continuous and shall be given during said months and the fourth and fifth weeks' vacation may be given at any time during the calendar year. The vacation period shall be fixed by the Employer and communicated to the Union and the employees at least four weeks in advance. Such assignment, will be made with due consideration for the seniority of the employee. However, effective January 1st, 1985, employees first becoming eligible for more than 2 weeks' vacation may have such additional week or weeks scheduled by the Employer at a time outside of the June-September normal vacation period.

(k) In the event that any full time employee who has been employed for six months or more leaves his/her position or is discharged or laid off prior to the vacation period for that year or during or after the vacation period but without having received his full vacation for that year, then, nevertheless, such employee shall receive his/her full pro rata vacation pay at the time he/she either leaves his/her position or is discharged or laid off. All full time employees laid off by the Employer before the completion of their six (6) month qualifying period shall receive proratable vacation for each month of continuous service rendered except those employees who have been discharged for good cause and/or voluntarily left their employment.

(l) In the event that any holidays provided herein shall occur during an employee's vacation period, such employee's vacation period shall be increased, with full pay, to include an equivalent number of days to make up for such holidays.

(m) Regular part time employees may work up to forty hours weekly during the months beginning May 15, June, July and August, and through September 15, but shall nevertheless be considered part time employees while so working. The Employer shall, while they are so working, at its sole expense, without deductions from them, fully cover them under the New York State Disability Benefit Law.

ARTICLE X

Management (Where Applicable)

Subject to the provisions of this Agreement, the Employer has the right to establish policies and manage stores covered by this Agreement and direct the employees, including but not limited to, the right to hire, discharge for just cause, suspend for just cause (subject to authorization by the Employer's President or Vice President for personnel and industrial relations or their other specific designee), promote, demote, layoff, transfer and assign employees, to fix openings and closing store hours, to designate employees' working hours, maintain order and efficiency and supervise the employees.

ARTICLE XI

No Individual Agreements

The Employer will not enter into individual agreement of any kind with an employee, not accept nor require any security of any kind from an employee.

ARTICLE XII

Checkoff

Under the written authorization of the employees in accordance with applicable law, the Employer shall, on the first weekly pay day in each calendar month, deduct from the wages of each such employee a sum equal to such employee's Union dues, fees and

assessments, which the Employer shall pay over to the Union or its duly authorized representative, receiving the Union's receipt therefor. Such deductions must be paid over to the Union on or before the 20th day of each and every month, covering the amounts so deducted for that month.

ARTICLE XIII

Employment of Minors

The Employer does hereby agree not to employ any minors which shall constitute a violation of any provisions of the State or Federal statutes in such cases made and provided.

The parties agree that, notwithstanding anything to the contrary contained in the collective bargaining agreement, part time employees under sixteen (16) years of age may be scheduled to work less than four (4) hours per day, but not less than three (3) hours per day, on those days and during those seasons (school year) when to do so would be a violation of law or regulation.

ARTICLE XIV

Visits by Union Representatives

The business agent or any authorized representative of the Union may visit the stores of the Employer at any time during business hours for the purpose of interviewing or observing the employees or for the purpose of conferring with the Employer.

ARTICLE XV

More Beneficial Terms

The Employer shall continue to grant its employees any and all terms and conditions previously granted by it more beneficial to its employees than those herein contained.

ARTICLE XVI

Health and Welfare Fund Retirement Fund and Dental Fund

- (a) Health and Welfare Fund
 - 1. Full time employees. The Employer shall pay to the Local 338 Health and Welfare Fund for each of its full time employees covered by this Agreement the sum of \$101.00 per month and effective October 1, 1990, \$109.25 per month; effective October 1, 1991 \$117.50 per month.
 - 2. Part time employees. The Employer shall pay to the Local 338 Health and Welfare Fund for each of its part time employees covered by this Agreement the sum of \$17.00 per month and effective October 1, 1990, \$20.00 per month; effective October 1, 1991 \$23.00 per month.
- (b) Retirement Fund
 - 1. Full time employees. The Employer shall pay to the Local 338 Retirement Fund for each of its full time employees covered by this Agreement the sum of \$89.50 per month; effective October 1, 1989, \$93.50 per month; effective October 1, 1990, \$97.75 per month; and effective October 1, 1991, \$102.00 per month.
 - 2. Part time employees. The Employer shall pay to the Local 338 Retirement Fund for each of its part time employees covered by this Agreement the sum of \$29.50 per month; effective October 1, 1989, \$32.00 per month; effective October 1, 1990, \$33.25 per month; and effective October 1, 1991, \$34.50 per month.
- (c) Dental Fund
 - 1. Full time employees. The Employer shall pay to the Local 338 Dental Fund for each of its full time employees covered by this Agreement the

sum of \$23.00 per month; effective October 1, 1990, \$26.00 per month; and effective October 1, 1991, \$29.00 per month.

2. Part time employees. The employer shall pay to the Local 338 Dental Fund for each of its part time employees covered by this Agreement the sum of \$17.00 per month; effective October 1, 1990, \$20.00 per month; and effective October 1, 1991, \$23.00 per month.

- (d) Comencement of Payments. All payments above provided to the Health and Welfare Fund, the Retirement Fund, and the Dental Fund, shall commence as follows:
1. In the case of full time employees, payments shall commence with the first calendar month following the first month of employment.
 2. If a full time employee is hired on or before the 15th of a month, he/she shall be deemed to have been employed for the entire month; if he/she is hired after the 15th of a month, he/she shall be deemed to have been hired on the first of the following month.
 3. In the case of part time employees payments shall commence with the first calendar month after the employee has been employed for 3 consecutive calendar months.

(e) Payments during non-working periods. In the event any regular employee shall not be working due to illness or disability, the Employer shall continue to make payments hereunder to the Local 338 Health and Welfare Fund, to the Local 338 Retirement Fund, and to the Local 338 Dental Fund for each such employee, but not for more than 13 weeks of illness or disability during any contract year of this Agreement.

(f) Books and records. The Union and said respective Funds shall have the right at all times to examine the Employer's books and records for the purpose of determining whether the Employer is complying with the provisions of this Agreement.

(g) Disability Benefit Law. The Employer shall, during the term of this Agreement, at its sole expense and without deduction from its part time employees, fully cover its part time employees under the New York State Disability Benefits Law.

(h) Date of payments. All payments due from the Employer to the Local 338 Health and Welfare Fund, the Local 338 Retirement Fund, and the Local 338 Dental Fund, must be paid on or before the 20th day of each and every month covering the amounts payable hereunder for the preceding months. All payments shall be without any deductions from employees.

ARTICLE XVII

Sick Leave

(a) In the first contract year of his/her full time employment each regular full time who has worked continuously for 3 months shall be entitled to receive a maximum of 9 days of sick leave with pay in each contract year provided that if the employee has not worked 12 months during his/her first contract year, sick leave will be prorated. In succeeding contract years the employee shall receive the full amount of sick leave above mentioned without pro ration. All unused sick leave at the end of each contract year shall be paid in a lump sum. A contract year means the period October 1 to September 30.

(b) Part-time employees with one year of continuous service shall be entitled to three (3) scheduled days paid sick leave per year. A part-time employee with two years of continuous service shall be entitled to four (4) scheduled days sick leave per year. A part time employee with three (3) years or more of continuous service shall be entitled to five (5) scheduled days paid sick leave per year. A part time employee with two (2) years or more of continuous service shall be paid for unused sick days at the end of each contract year, on the basis of four (4) hours pay for each unused day.

(c) An employee who is injured on the job and is directed by a medical doctor not to continue work shall be paid his usual day's wages at straight time for the day on which the injury occurred and such day shall not be considered sick leave.

(d) In the event an employee is terminated due to a lay off or retirement, such employee, if eligible, shall receive payment for unused sick leave on a pro-rata basis.

ARTICLE XVIII

Funeral Leave

(a) Regular full time employees who, after 30 days of continuous employment, have a death in the immediate family, shall be entitled to 3 working days off with pay for actual time lost. The "immediate family" shall be limited to the employee's father, mother, sister, brother, spouse, children and spouse's parent.

(b) Regular part time employees who, after 30 days of continuous employment, have a death in the immediate family, shall be entitled to funeral leave as provided for full time employees, but on a pro-rated basis. Such employees shall be compensated for actual time lost as set forth on the weekly work schedule.

(c) All employees after 30 days of employment shall be entitled to one day paid leave for a regularly scheduled work day lost to attend the funeral of an employee's grandparent or grandchild.

ARTICLE XIX

Jury Duty

Any employee employed continuously for three months or longer who is required to perform jury duty shall be paid the difference between his/her regular straight time earnings and any payment paid for service as a juror not exceeding two weeks in any year; provided, however that the juror's fee earned by him or his/her regular day off shall be excluded in computing the pay to be granted him. The employee shall work on any of his/her regularly scheduled work days, when he/she is not required to serve on a jury.

ARTICLE XX

Leave of Absence

(a) When a female employee with one year or more continuous employment leaves because of maternity, she will be granted a leave of absence without loss of seniority for a period not exceeding six months. This period of time shall not exceed three months prior to the birth of the child and three months after the birth. She shall give the Employer two weeks prior notice before taking such leave of absence. Upon request for reinstatement, which shall be no less than two weeks before she intends to return to work, she shall furnish a doctor's certificate showing she is able to perform the normal duties of her job. During the leave of absence, all fringe benefits, including time worked for vacation credit, will be forfeited.

(b) An employee absent from work due to illness or injury shall retain his seniority for a period not to exceed twelve (12) months.

ARTICLE XXI

No Lie Detector Test

The Employer shall not require nor request its employees to submit to any lie detector tests.

ARTICLE XXII

No Discrimination

The Employer shall not discriminate against any employee because of race, color, religion, sex, age or national origin.

ARTICLE XXIII

Store Linen

The Employer shall, at its own cost and expense, furnish and launder the customary store coats, aprons, gowns and all apparel required by the Employer to be worn by any employee.

ARTICLE XXIV

Transfers

The Employer shall have the right to transfer any employee from one store to another, provided, however, that all transfers shall be limited to within a reasonable radius of the employee's home or last store location. In case of permanent transfers, three work days' prior notice shall be given by the Employer to the employee and to the Union. Temporary transfers of one week or less of employees for the convenience of the Employer need not be reported by the Employer to the Union. In the event any employee is transferred from one store to another store, the Employer shall reimburse him for the additional fares, tolls and gasoline costs resulting from such transfer; unless such transfer results from a store closing.

ARTICLE XXV

Arbitration

(a) There shall be no strike or picketing by the Union nor lockout by the Employer during the duration of this Agreement, except for and after the failure of the other party to submit to arbitration hereunder or to abide by and perform the decision or award of the arbitrator herein provided for.

(b) Should any dispute arise between the Employer and the Union or any employees concerning the interpretation or application of any of the terms and provisions of this Agreement, or any alleged breach of this Agreement, and the Employer and the Union

shall be unable to adjust said dispute between themselves, the said dispute, at the request of either the Employer or the Union, shall be submitted to arbitration under auspices of and in accordance with the then rules of the New York State Mediation Board or the American Arbitration Association at the option of the Union. The decision or award of the arbitrator shall be final and binding and conclusive upon the Employer, the Union and the employees. The compensation of the Arbitrator, if any, shall be borne equally by the parties. No decision in arbitration shall constitute a precedent in any subsequent case, and each case shall be considered solely on its own merits and shall be based upon the terms of this Agreement.

(c) The sole remedy for any breach or threatened breach of his Agreement shall be arbitration as provided. Resort shall not be made to courts or governmental agencies except to compel arbitration or to enforce the arbitration award.

(d) A violation or breach of this Agreement by any employee or employees shall not be considered a violation or breach of this Agreement by the Union.

(e) A grievance by an employee against an Employer concerning disciplinary action, must be filed by the employee within 30 days after written notice by the Employer to the employee and to the Union of such discipline, otherwise the grievance shall be deemed to be waived.

(f) Notwithstanding, any other provisions herein the Union shall have the right to strike in the event that an Employer is delinquent in making contributions to an affiliated Fund in accordance with the terms of this Agreement.

ARTICLE XXVI

Separability

It is expressly understood and agreed between the parties hereto that the provisions of this Agreement shall be deemed to be independent of each other, and that if any provisions of this Agreement shall be judicially declared to be invalid because contrary to law, or shall otherwise become ineffective under any legally binding order

or decision of any Court, Board or governmental agency, or by operation or law, the invalidity or ineffectiveness of such provision shall not invalidate any other provisions of this Agreement; it being the express intention of the parties hereto that all other provisions of this Agreement shall not be affected thereby, but shall continue in full force and effect for the period of this Agreement. It is further expressly understood and agreed that if any provision or the enforcement or performance of any provision of this Agreement shall at any time contrary to law, than such provision shall not be applicable except to the extent permitted by laws; and that if at any time thereafter such provision or its enforcement or performance shall no longer conflict with the law, then it shall be deemed restored in full force and effect as if it had never been in conflict with the law. It is the understanding and Agreement of the parties that the provisions of this Agreement are retroactive or effective as herein expressly provided except as prohibited by controlling law, in which event such respective provisions shall be retroactive to, and/or effective, when and to the extent permitted by controlling law.

ARTICLE XXVII

Termination

This Agreement shall be effective as of October 1, 1989 and shall terminate on September 30, 1992.

ARTICLE XXVIII

Successors and Assigns

This Agreement shall inure to the benefit of, and be binding upon, the parties hereto their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused there presents to be duly executed as of the day and year above written.

Employer

By _____

Print Name

•

Title

RETAIL: WHOLESALE & CHAIN STORE FOOD EMPLOYEES UNION
LOCAL 338

By _____

Title

APPENDIX "A"

Wage and Related Provisions

(a) The minimum weekly wage for a 40 hour, 5 day work week for assistant managers shall be:

| | |
|------------------------------|----------|
| effective October 1, 1989 | \$623.00 |
| effective September 30, 1990 | \$638.00 |
| effective March 31, 1991 | \$653.00 |
| effective September 29, 1991 | \$673.00 |
| effective March 29, 1992 | \$683.00 |

(b) The minimum weekly wage for a 40 hour, 5 day work week for grocery, produce, dairy-frozen food, appetizing and delicatessen department heads designated by the Employer shall be:

| | |
|------------------------------|----------|
| effective October 1, 1989 | \$592.00 |
| effective September 30, 1990 | \$607.00 |
| effective March 31, 1991 | \$622.00 |
| effective September 29, 1991 | \$642.00 |
| effective March 29, 1992 | \$657.00 |

(c) The Employer will grant each assistant manager, and grocer produce, dairy-frozen food and appetizing and delicatessen department head the following applicable wage increases per week for a 40 hour, 5 day work week:

| | Assistant Managers | Department Heads |
|--------------------------|-----------------------|---------------------|
| effective Oct. 1, 1989 | \$30.00 | \$25.00 |
| effective Sept. 30, 1990 | \$15.00 | \$15.00 |
| effective Mar. 31, 1991 | \$15.00 | \$15.00 |
| effective Sept. 29, 1991 | \$20.00 | \$20.00 |
| effective Mar. 29, 1992 | \$10.00 | \$15.00 |

(d) The Employer will grant each regular full time grocery, dairy-frozen food, produce, appetizing and delicatessen clerk and each scale attendant, cashier, porter, checker, store clerical, wrapper, bakers and miscellaneous employee employed prior to the effective date of this Agreement the following applicable wage increases per week for a 40 hour, 5 day work week:

| | |
|------------------------------|---------|
| effective October 1, 1989 | \$20.00 |
| effective September 30, 1990 | \$15.00 |
| effective March 31, 1991 | \$10.00 |
| effective September 29, 1991 | \$15.00 |
| effective March 29, 1992 | \$20.00 |

(e) Minimum weekly wage for full time clerks who have completed their trial periods prior to October 1, 1989:

| | |
|---------------|----------|
| Oct. 1, 1989 | \$240.00 |
| Dec. 31, 1989 | \$265.00 |
| July 1, 1990 | \$285.00 |
| Dec. 30, 1990 | \$305.00 |
| Jun. 30, 1991 | \$325.00 |
| Dec. 29, 1991 | \$350.00 |
| Aug. 30, 1992 | \$375.00 |

(f) Effective August 30, 1992, the minimum weekly wage for regular grocery, dairy-frozen food, produce and appetizing delicatessen clerks, and scale attendants, cashiers, porters, checkers, store clericals, bakers, wrappers, and miscellaneous employees for a 40 hour work week who had completed their trial periods on the same work week basis prior to the effective date of this Agreement shall be:

| As of Sept. 30, 1989: | Shall earn as of Aug. 30, 1992 |
|-----------------------|-----------------------------------|
| \$200.00-\$245.00 | \$375.00 |
| 246.00- 305.00 | 400.00 |
| 306.00- 345.00 | 425.00 |
| 346.00- 365.00 | 450.00 |
| 366.00- 390.00 | 475.00 |
| 391.00- 420.00 | 500.00 |
| 421.00- 445.00 | 525.00 |
| 446.00- 479.00 | 550.00 |
| 480.00 Plus | 575.00 |

(g) Assistant managers and grocery, produce dairy-frozen food, appetizing- delicatessen department heads so employed prior to October 1, 1971 or January 2, 1972 (whichever is appropriate) shall each be guaranteed their overtime worked prior to October 1, 1971 or January 2, 1972 (whichever is appropriate) during the 5 day work week, but only up to 12 hours during such 5 day work week.

(h) The Employer will grant each regular part time employee who has completed his/her trial period prior to the effective date of this Agreement, the following applicable wage increases per hour:

| | |
|------------------------------|-----|
| effective October 1, 1989 | .30 |
| effective April 1, 1990 | .10 |
| effective September 30, 1990 | .20 |
| effective March 31, 1991 | .20 |
| effective September 29, 1991 | .20 |
| effective March 29, 1992 | .25 |

(i) Effective August 30, 1992, the minimum wage for regular part time employees who had completed their trial periods prior to the effective date of this Agreement and who are earning:

| As of September 30, 1989 | Shall earn as of August 30, 1992 |
|--------------------------|----------------------------------|
| \$4.00-\$4.50 per hour | \$5.75 |
| \$4.51-\$4.75 per hour | \$6.00 |
| 4.76- 5.00 per hour | 6.25 |
| 5.01- 5.25 per hour | 6.50 |
| 5.26- 5.50 per hour | 6.75 |
| 5.51- 5.75 per hour | 7.00 |
| 5.76- 6.00 per hour | 7.25 |
| 6.01- 6.35 per hour | 7.75 |
| 6.36- 6.75 per hour | 8.00 |
| 6.76- 7.00 per hour | 8.25 |
| 7.01- 7.25 per hour | 8.50 |
| 7.26- 7.50 per hour | 8.75 |
| 7.51- 7.75 per hour | 9.25 |
| 7.76- 8.24 per hour | 9.50 |
| 8.25 Plus | 9.60 |

(j) Grocery, dairy-frozen food, produce and appetizing-delicatessen clerks, and scale attendants, cashiers, checkers, store clericals, bakers, and wrappers hired on or after the effective date of

this Agreement and working a 40 hour, 5 day work week shall receive the following applicable minimum weekly wage for their classification, effective October 1, 1989, subject, however, to the provisions of paragraph (1) of this Appendix:

| | | |
|--------|----------------------------------|----------|
| Step 1 | After completion of trial period | \$240.00 |
| Step 2 | 6 months after Step 1 | 265.00 |
| Step 3 | 6 months after Step 2 | 285.00 |
| Step 4 | 6 months after Step 3 | 305.00 |
| Step 5 | 6 months after Step 4 | 325.00 |
| Step 6 | 6 months after Step 5 | 350.00 |

- (k) Regular part time employees hired on or after the effective date of this Agreement shall receive the following applicable minimum hourly wages and increases after completing their trial periods:
The minimum per hour wage rate shall be \$4.25.
Effective September 29, 1991, the minimum wage shall be \$4.35.
Further, there shall be a maximum Step wage increase of \$.20 per hour on the first full week of each January and July subject to the provisions of paragraph (1) of this Appendix.
- (l) All full and part time employees hired on or after the effective date of this Agreement shall receive their trainee progression increases in accordance with the following schedule:
- (i) all employees arriving at Step 1 or a higher step in the months of May, June, July, August, September or October shall advance to Step 2 or their next succeeding wage step in the first full week of January;
 - (ii) all employees arriving at Step 1 or a higher step in the months of November, December, January, February, March or April shall advance to Step 2 or their next succeeding wage step in the first full week of July;

(iii) thereafter said employees shall advance to the next applicable succeeding wage step every six months until he/she reaches the applicable maximum of his/her trainee progression rate range, or if he/she has been hired at or above such maximum, he/she shall receive all subsequent wage increases for his/her classification under paragraph (d) or (g) of this Appendix.

(m) Any employee hired on or after the effective date of this Agreement at a rate equal to or in excess of the applicable trainee progression rate after completion of the trial period, must 6 months immediately following the completion of the trial period be at the rate equal to one wage step higher than the rate at which he/she was hired, subject, however, to the provisions of paragraph (k) of this Appendix. On each succeeding sixth month, said employee shall advance to the next wage step, until he reaches the applicable maximum of his/her trainee progression rate range. After attaining the maximum of his/her trainee progression rate range, or if he/she has been hired at or above such maximum, he/she shall receive all subsequent wage increases of his job classification under paragraph (d) or (g) of this Appendix.

(n) All employees shall in any event receive a minimum wage increase of \$.25 per hour after completion of the trial period.

In the event of an increase in Federal or State minimum wage requirements, the employer agrees to meet and discuss those rates impacted by the new minimum wage.

(o) Full time employees whose trial period is longer than thirty days under the provisions of this Agreement and who complete their trial period hereunder, shall receive their first trainee progression wage increases and/or other wage increases hereunder retroactive to the 31st day of their employment.

(p) The provisions of this Appendix relating to employees working a 40 hour week shall apply pro rata to employees working 30 hours or more weekly in the proportion that their weekly hours of work bear to 40 hours.

(q) In the event that an employee regularly employed part time changes to regular full time employment, then, for all purposes of computation of his/her length of full time employment, be credited with 50% of the length of his/her part time employment, and his minimum wages, wages and all benefits and conditions hereunder shall be computed accordingly starting with the date of such transfer.

(r) Any employee designated by the Employer to relieve a store manager for one or more weeks shall be paid the applicable minimum wage for store managers hereunder.

(s) Any employee working a 40 hour work week designated by the Employer to work as a front end employee, scanning coordinator or bookkeeper shall be paid a \$15.00 bonus for a 40 hour work week above his/her otherwise applicable wage. Any part time employee designated by the Employer as a front end employee, or bookkeeper shall be paid a \$.25 per hour bonus above his/her otherwise applicable wage.

(t) Any employee designated by the Employer to relieve a grocery, produce, dairy, frozen food, appetizing or delicatessen department head or assistant manager for one or more weeks shall be paid a \$15.00 bonus for a 40 hour work week above his applicable wage.

(u) All employees shall receive their applicable wage increases hereunder or their applicable minimum wage scales hereunder, whichever is greater.

(v) Merit wage increases shall not be credited or charged against trainee progressions, anniversary or other wage increases hereunder until Step 6 is attained as listed under paragraphs (i) and (k) of this Appendix.

(w) In no event shall the wages of any employee be decreased during the life of this Agreement. No employee shall in any event receive less than the applicable minimum wage herein provided for his/her classification. The minimum wage scale as herein fixed shall not be reduced during the life of this Agreement. In the event any employee classified as a porter or delivery man is required to do work as a clerk, he shall be paid the entire day at the higher rate.

(x) Employees required to report for work on any day and who report for work on that day and who, through no fault of their own, are not permitted to work on that day, shall nevertheless, be paid their full day's pay for that day.

(y) The Employer shall pay each of its employees on a fixed day of each and every week, the wages due such employees for the previous week.

(z) Should an employee be promoted by the Employer to department head or assistant manager, and should the difference between such employee's wage for a 40 hour 5 day week in his/her old job classification and in his/her new job classification exceed \$25.00, such employee shall be paid the weekly wage hereunder for the higher job classification less such excess immediately upon such promotion, and shall be paid such excess starting with the satisfactory completion of a 60 day trial period in his new job classification.

(aa) Notwithstanding the provisions of Article I or any other provision of this Agreement, should the Employer employ any extra employee for an 8 hour day, the Employer shall pay to the respective Funds the respective amounts provided below with respect to each such employee for each such day:

| | |
|---------------------------------------|--------|
| Local 338- Health and Welfare Fund | \$7.00 |
| Local 338- Retirement Fund | \$6.00 |
| Local 338- Dental Fund | \$4.00 |

(bb) Stores consistently having gross sales of \$125,000 or less per week need not designate Department Heads; excepting those Department Heads who were designated prior to October 1, 1989. Anyone designated after October 1, 1989 shall receive fifteen (\$15.00) per week in addition to their base weekly wage.

(cc) All working time shall be recorded by assistant managers and department heads. Permanent written records of all paid hours of employees, as required by ERISA, shall be maintained by the Employer and reported and made available to the Trustees of the Local 338 Retirement Fund.

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*This report is authorized by law 29 U.S.C. 2.
Your voluntary cooperation is needed to make
the results of this survey comprehensive,
accurate, and timely.*

Form Approved
O.M.B. No. 1220-0001
Approval Expires 1/31/90

DECEMBER 27, 1989

APR 19 1990

Secretary-Treasurer
Retail, Wholesale Chain Store Food
Employees Union Local 338
1790 Broadway
New York, NY. 10019

PREVIOUS AGREEMENT EXPIRED
SEPTEMBER 30, 1989

Respondent:

We have in our file of collective bargaining agreements a copy of your agreement(s):

Waldbaum Inc LU 338

WITH RETAIL, WHOLESALE, AND DEPARTMENT
NEW YORK

Would you please send us a copy of your current agreement—with any supplements (e.g., employee-benefit plans) and wage schedules—negotiated to replace or to supplement the expired agreement. If your old agreement has been continued without change or if it is to remain in force until negotiations are concluded, a notation to this effect on this letter will be appreciated.

I should like to remind you that our agreement file is open for your use, except for material submitted with a restriction or public inspection. You may return this form and your agreement in the enclosed envelope which requires no postage.

Sincerely yours,

Janet L. Norwood

JANET L. NORWOOD
Commissioner

PLEASE RETURN THIS LETTER WITH
YOUR RESPONSE OR AGREEMENT(S).

If more than one agreement, use back of form for each document. (Please Print)

- 1. Approximate number of employees involved 16500
- 2. Number and location of establishments covered by agreement 400
- 3. Product, service, or type of business Retail Foods Stores
- 4. If your agreement has been extended, indicate new expiration date 9/30/82

Jeffrey Reis Office Mgr 718 997 740
 Your Name and Position Area Code/Telephone Number
Local 338 97-45 Queens Blvd Rego PK NY 11374
 Address City/State/ZIP Code