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Background

American Securities Fund III owns the largest solar contractor in the country, SOLV Energy. SOLV Energy is the contractor hired to build the Harquahala Phase One and Two projects in Arizona. The developer of Harquahala is Copia Power. In December 2023, Copia finalized \$1.2 Billion in financing for Harquahala which will allow it to fund construction and operations. The Carlyle Group owns Copia.

The Problem: Reliance on Temporary Staffing Agencies

Instead of creating high road, clean energy jobs on Harquahala, SOLV Energy is relying on temporary staffing agencies as a source of construction craft labor for the utility-scale Harquahala solar project. It appears from a sworn declaration provided by one temporary worker employed on the site that temporary workers are not receiving either health care benefits or retirement benefits.¹

SOLV Energy has worked with temporary staffing agencies before. The LM-10 form is a form that employers must file with the Department of Labor disclosing various information including whether they make payments to consultants for the purpose of coercing employees in the exercise of their right to organize and bargaining collectively. In a 2022 LM-10 form filed with the Department of Labor, temporary staffing agency Aerotek stated that they paid CACR Labor Education Services “*to provide SOLV and Aerotek leaders with direct employee education regarding the National Labor Relations Act and related information.*”²

Grueling Conditions for Solar Workers

The solar industry’s reliance on temporary staffing agencies has failed to create quality jobs for construction workers. Temporary workers in solar construction recently interviewed in Vice Magazine describe grueling conditions, long hours, low pay, wage theft, and poor living conditions far from home. The report notes,

“The more subcontracting, the worse conditions,” said [Carol] Zabin, the director of UC Berkeley’s green economy program. “It’s a cost reducer. It’s often a quality reducer and it’s certainly an income reducer for workers.”³

Temporary Workers Have Higher Rates of Occupational Injuries

Research has documented that temporary workers have higher injury rates compared to their non-temporary counterparts. For example, a study published in 2019 reviewed 1.3 million workers’ compensation claims in Ohio over a twelve-year period. The study concluded,

“*Temporary had higher overall injury rates than permanent workers, controlling for industry manual class. These differences were pronounced for certain industries and injury events.*”⁴

¹ Declaration of Joseph Griego, Employed by Renewable Works, February 8, 2024.

² Aerotek, Inc., LM-10 Employer Report, 2022.

³ Lauren Kaori Gurley, “Shifting America to Solar Power is a Gruel, Low-Paid Job,” Vice Magazine, June 27, 2022, <https://www.vice.com/en/article/z34eyx/shifting-america-to-solar-power-is-a-grueling-low-paid-job>.

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A 2009 study of 342,540 workers' compensation claims in Washington State showed temporary workers had higher injury rates, and had 1.5 times greater median lost time per claim than their non-temporary counterparts (40 days vs. 27 days) indicating a greater loss in productivity. The study notes,

“Temporary agency employed workers have higher claims incidence rates than those in standard employment arrangements. The rate ratios are twofold higher in the construction and manufacturing industry sectors.”⁵

Lack of Training for Temporary Workers

Temporary workers attribute higher rates of injuries to differential treatment, including less training on occupational safety and health, and fewer opportunities to participate in company safety programming compared to non-temporary workers.⁶ A 2015 report by the U.S. Governmental Accountability Office on temporary workers notes,

“According to OSHA officials, some temporary workers are more vulnerable to workplace safety and health hazards, for a variety of reasons, including because they often are not provided adequate safety training or equipment by either the staffing agency or the host employer.”⁷

Temporary Workers Have Greater Job Instability, Lower Wages, and Minimal Benefits

Temporary workers tend to receive lower wages, minimal benefits, and have greater job instability compared to their non-temporary counterparts. The GAO found that temporary workers are less likely to work full time, have less protection, are paid lower wages, are less likely to have employer-provided benefits, and are more reliant on public assistance. Indeed, the report found temporary workers earn about 10.6% less per hour than non-temporary workers, and are about two-thirds less likely than standard workers to have a work-provided retirement plan.⁸ A 2023 proxy statement by TrueBlue, Inc., PeopleReady's corporate parent, confirms temporary workers are less likely to be employed for a full year. In 2022, the annual total compensation for the median employee at the company was \$8,188.⁹

⁴ Al-Tarawneh IS, Wurzelbacher SJ, Bertke SJ. Comparative analyses of workers' compensation claims of injury among temporary and permanent employed workers in Ohio. *Am J Ind Med.* 2020; 63: 3–22.

<https://doi.org/10.1002/ajim.23049>

⁵ Smith, C.K., Silverstein, B.A., Bonauto, D.K., Adams, D. and Fan, Z.J. (2010), Temporary workers in Washington State. *Am. J. Ind. Med.*, 53: 135-145. <https://doi.org/10.1002/ajim.20728>

⁶ Menger-Ogle LM, Baker D, Guerin RJ, Cunningham TR. A staffing perspective on barriers to and facilitators of temporary worker safety and health. *Am J Ind Med.* 2023; 66: 736-749. doi:10.1002/ajim.23509

⁷ U.S. Governmental Accountability Office, Contingent Workforce, GAO-15-168R Contingent Workforce, August 20, 2015, <https://www.gao.gov/assets/gao-15-168r.pdf>.

⁸ U.S. Governmental Accountability Office, Contingent Workforce, GAO-15-168R Contingent Workforce, August 20, 2015, <https://www.gao.gov/assets/gao-15-168r.pdf>.

⁹ Schedule 14A, TrueBlue, Inc., <https://investor.trueblue.com/sec-filings/all-sec-filings/content/0001140361-23-014823/0001140361-23-014823.pdf>.

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In addition, a comparison of the Bureau of Labor Statistics' most recent average occupational wage data for construction laborers, operating engineers, and electricians, the primary construction trades employed on a solar project, show temporary workers earn between 19% to 29% less than the BLS average for these occupations.¹⁰

Furthermore, according The Center for Construction Research and Training,

“Temporary employment makes it easier for companies to adjust labor while avoiding some of the costs associated with hiring, firing, and workers’ benefits. However, it increases job instability and can lead to other adverse effects for temporary workers. Compared to regular employees, temporary workers tend to receive lower earnings and fewer benefits, and are less likely to be given adequate safety and health training.”¹¹

Temporary Workers Experience High Rates of Discrimination and Retaliation

A 2017 report on temporary workers by the National Staffing Workers Alliance and National Economic & Social Rights Initiative found surveyed workers experienced high rates of discrimination and retaliation. According to the report, 47% of workers said they experienced retaliation after filing a complaint with the Department of Labor or trying to improve working conditions, 53% of Latino workers said they felt targeted for their immigration status, 22% said they experienced racial discrimination, and 12% said they experienced sexual harassment.¹²

In addition, a 2021 study on workplace sexual harassment among low-wage Hispanic women found,

“Temporary workers reported being frequently subjected to explicit quid pro quo sexual harassment (Table 2). Two-thirds of the participants identified their supervisors as the harassers. Every interviewee that stated that they had not reported the harassment indicated that fear of being fired and lack of knowledge about the administrative process to report the event were the most common barriers to reporting. Physical and emotional negative health effects such as constant headaches and anxiety were attributed by the interviewees to the workplace sexual harassment situations experienced.”¹³

A pending sexual harassment lawsuit brought by a female laborer employed by PeopleReady on a Swinerton (SOLV's predecessor) project speaks to some of the sexual harassment and

¹⁰ Comparison of BSL occupational wage data. For temporary workers' wages, see: https://www.bls.gov/oes/current/naics5_561320.htm#47-0000. For non-temporary workers' wages, see: https://www.bls.gov/oes/current/oes_nat.htm#47-0000.

¹¹ The Center for Construction Research and Training, Chart Book (6th edition): Employment and Income – Temporary Workers in Construction and Other Industries, <https://www.cpw.com/research/data-center/the-construction-chart-book/chart-book-6th-edition-employment-and-income-temporary-workers-in-construction-and-other-industries/>

¹² National Staffing Workers Alliance and National Economic & Social Rights Initiative, Temporary Work Permanent Abuse, 2017, https://dignityandrights.org/wp-content/uploads/2017/03/Temp_Work_FINAL_email.pdf.

¹³ Occup Health Sci. 2021 July 27; 5(3): 391–414. doi:10.1007/s41542-021-00093-6, see: <https://stacks.cdc.gov/view/cdc/128469>.

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retaliation issues highlighted by researchers. On September 14, 2022, Tayah Molchanoff, a former laborer for PeopleReady, filed a lawsuit against PeopleReady, SOLV Energy, and Swinerton Renewable Energy after she was allegedly terminated by PeopleReady and Swinerton/SOLV in retaliation for reporting a sexual assault by her supervisor during employment on a Swinerton project in Utah.¹⁴ Molchanoff's complaint alleges that her supervisor pled guilty to criminal sexual battery charges on June 7, 2022, and asserts various claims for relief including sexual harassment, retaliation, failure to maintain an environment free from retaliation, and wrongful termination. Molchanoff's complaint also alleges that after her wrongful termination by the defendants, she re-applied for a solar laborer position with them but was denied employment despite her qualifications in a further act of retaliation against her.¹⁵ PeopleReady denied all claims, but entered into a settlement agreement with Molchanoff on August 8, 2023.¹⁶ PeopleReady was dismissed from the case following the settlement.¹⁷ Swinerton and SOLV remain parties to the case. One of Swinerton/SOLV's defenses is that Molchanoff is barred from suing the companies because she signed an arbitration agreement that includes them.¹⁸ Mandatory settlement conference briefs are due April 24, 2024, and the final pretrial conference is scheduled for November 14, 2024.¹⁹

The temporary staffing agencies SOLV Energy has worked with both have settled recent discrimination allegations with the U.S. Equal Employment Opportunity Commission (EEOC). In 2021, Aerotek agreed to pay \$3.525 million to resolve age, sex, and race discrimination investigations.²⁰ In 2022, PeopleReady and its parent company TrueBlue settled a disability discrimination lawsuit brought against them by the EEOC under a consent decree providing for a payment of \$125,000 and for substantial equitable relief intended to prevent further disability discrimination.²¹

Energy Transition Leads to Poor Quality Jobs

¹⁴ PeopleReady notes she worked at Swinerton jobsites in Beryl, Utah and Clawson, Utah. Case 3:23-cv-00653-LL-DEB, Document 1, Filed 4/11/23, PageID.73, Memorandum of Points and Authorities in Support of Defendant PeopleReady, Inc.'s Motion to Quash Service of Summons, 11/23/22.

¹⁵ Case 3:23-cv-00653-LL-DEB, Document 1, Filed 4/11/23, PageID.144-163, Plaintiff's First Amended Complaint for Damages, 3/23/23.

¹⁶ Case 3:23-cv-00653-LL-DEB, Document 21, Filed 8/31/23, PageID.586-590, Plaintiff Taya Molchanoff and Defendant PeopleReady, Inc.'s Notice of Joint Motion and Joint Motion to Dismiss Pursuant to Settlement; Memorandum of Points and Authorities in Support Thereof, 8/31/23.

¹⁷ Case 3:23-cv-00653-LL-DEB, Document 22, Filed 9/1/23, PageID.591, Order Granting Joint Motion to Dismiss Defendant PeopleReady, 9/1/23.

¹⁸ Case 3:23-cv-00653-LL-DEB, Document 3, Filed 4/11/23, PageID.198, Defendant Swinerton Builders' Answer to Plaintiff's First Amended Complaint, 4/7/23.

¹⁹ Case 3:23-cv-00653-LL-DEB, Document 31, Filed 11/20/23, PageID.605-606, Order Granting Joint Motion to Amend Scheduling Order Deadlines, 11/17/23.

²⁰ U.S. Equal Employment Opportunity Commission, Aerotek to Pay \$3.525 Million to Conciliate EEOC Systemic Investigations, 10/1/21, <https://www.eeoc.gov/newsroom/aerotek-pay-3525-million-conciliate-eeoc-systemic-investigations>.

²¹ U.S. Equal Employment Opportunity Commission, TrueBlue and PeopleReady to Pay \$125,000 to Settle EEOC Disability Discrimination and Retaliation Suit, 2/24/22, <https://www.eeoc.gov/newsroom/trueblue-and-peopleready-pay-125000-settle-eeoc-disability-discrimination-and-retaliation>.

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Investors should urge American Securities and Carlyle to end their reliance on temporary staffing agencies in Arizona. They should instead be urged to work with other sources of construction craft labor like local unions who have a long history of building clean and traditional energy projects. SOLV's construction practices mean solar generation, which is replacing the retired coal power in Arizona, will undermine the promise of good jobs as the solar industry grows.

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