UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

JEN HOLDINGS, INC., d/b/a MIKE QUINN PUMPING COMPANY, also known as MIKE QUINN CONCRETE PUMPING CO. and QUINN CONCRETE PUMPING, INC.

and **Case 28-CA-23364**

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 12, AFL-CIO

MOTIONS TO TRANSFER AND CONTINUE MATTER BEFORE THE BOARD AND FOR DEFAULT JUDGMENT

The Acting General Counsel (the General Counsel) pursuant to the provisions of Section 102.24 and 102.50 of the Rules and Regulations of the National Labor Relations Board, Series 8, as amended (the Board's Rules), files with the National Labor Relations Board (the Board) these motions to transfer and continue before the Board and for default judgment, and in support of said motions alleges as follows:

1. The charge in Case 28-CA-23364 was filed by International Union of Operating Engineers, Local 12, AFL-CIO (Charging Party) against Jen Holdings, Inc., d/b/a Mike Quinn Pumping Company also known as Mike Quinn Concrete Pumping Co., and Quinn Concrete Pumping, Inc. (Respondent) on February 9, 2011, alleging Respondent has engaged in and is engaging in certain unfair labor practices affecting commerce set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Section 151 et. seq. (the Act).

2. An amended charge in Case 28-CA-23364 was filed by the Charging Party against Respondent on March 23, 2011.

3. A true copy of the charge in Case 28-CA-23364, referred to above in paragraph 1, was duly served upon Respondent by regular mail at its 5790 Rogers Street, Las Vegas, Nevada 89118 address on February 10, 2011. A copy of the charge and a copy of the affidavit of service of the charge are annexed and marked as General Counsel's Exhibits GCX A and B, respectively

4. A true copy of the amended charge in Case 28-CA-23364, referred to above in paragraph 2, was duly served upon Respondent by certified mail at its 5790 Rogers Street, Las Vegas, Nevada 89118 address and by regular U.S. Mail at its 10949 Bethel Park Court, Las Vegas, NV 89141 address on March 23, 2011. A copy of the amended charge and affidavit of service of the amended charge are annexed and marked as GCX C and D, respectively.

5. Based upon the charges described in paragraphs 1 and 2, the General Counsel, by the Regional Director for Region 28, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules, issued a Complaint and Notice of Hearing (Complaint) on March 30, 2011.

6. A true copy of the Complaint in Case 28-CA-23364, referred to above in paragraph 5, was duly served upon Respondent by certified mail at its 5790 Rogers Street, Las Vegas, Nevada 89118 address and by regular U.S. Mail at its 10949 Bethel Park Court, Las Vegas, NV 89141 address on March 30, 2011. A copy of the Complaint and affidavit of service of the Complaint are annexed and marked as GCX E and F, respectively.

7. In the paragraph of the Complaint, referred to above in paragraph 5, titled, "Answer Requirement," Respondent was notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules, it was required to file an Answer to the Complaint within 14

days from the date of service, and that failure to do so would result in all the allegations of the Complaint being deemed admitted to be true and so found by the Board.

8. The United States Postal Service's "Track and Confirm" system shows that the United States Postal Service attempted delivery of the Complaint by certified letter on April 1 and 4, 2011, but the mailing was returned as "undeliverable as addressed at 8:49 am on April 04, 2011 in LAS VEGAS, NV 89118." The Complaint that was served by U.S. Mail to10949 Bethel Park Court, Las Vegas, NV 89141 was not returned. A copy of the United States Postal Service's "Track and Confirm" online result for the Complaint is annexed and marked as GCX G.

9. In a telephone call on April 15, 2011, Respondent's owner, Michael Quinn Isley, informed the General Counsel that he was "thinking" about whether to file an Answer, and that he did not think he wanted to participate in a conference call with the Administrative Law Judge assigned to hear this case.

10. By letter dated April 15, 2011, the General Counsel advised Respondent that an Answer had not been filed in response to the Complaint, and further informed Respondent that the General Counsel would file a Motion for Default Judgment with the Board unless Respondent filed an Answer to the Complaint by the close of business on Monday, May 2, 2011. A copy of the Complaint and Notice of Hearing was enclosed in the General Counsel's April 15, 2011 letter, which was sent by regular U.S. mail to:

- Jen Holdings, Inc., 5790 Rogers Street, Las Vegas, NV 89118
- Mr. Mike Q. Isley, 5790 Rogers Street, Las Vegas, NV 89118
- Mike Q. Isley, President, Jen Holdings, Inc. d/b/a Mike Quinn Pumping Co., 10949 Bethel Park Court, Las Vegas, NV 89141;
- Crown Concrete Pumping, Inc., 5790 Rogers Street, Las Vegas, NV 89118

- Michael T. Gebhart, Attorney at Law, Peel Brimley LLP, 3333 East Serene Avenue, Suite 200, Henderson, NV 89074; and
- By E-mail to jenniferisley@embarqemail.com

The letter addressed to Respondent at 10949 Bethel Park Court, Las Vegas, NV 89141 was not returned. A copy of the General Counsel's letter to the Respondent, dated April 15, 2011, is annexed and marked as GCX H.

11. On April 27, 2011, the General Counsel resent the April 15, 2011 letter, via E-mail to jenniferisley@embarqmail.com, which included a copy of the Complaint and retained the date of May 2, 2011, as the deadline for Respondent's submission of its Answer. A copy of the General Counsel's letter to the Respondent, dated April 27, 2011 is annexed and marked as GCX I.

12. By E-mail dated April 27, 2011, Respondent replied to the General Counsel's April 15, 2011 letter as follows:

> *I have received the attached message. We are unable to respond to the false allegations made by a disgruntled employee due to lack of funds for representation and the fact the company is closed as of December 20, 2010.*
>
> *I have also been made aware that another Labor Board representative working on our case does not have our correct email. Please forward our information to any and all contacts for the Labor Board.*
>
> *10949 Bethel Park Ct.*
> *Las Vegas, NV 89141*
> *phone (702) 460-6208 (Michael Quinn Isley)*
> *jenniferisley@embarqmail.com*
>
> *Thank you,*
>
> *Jennifer Isley*

A copy of the Respondent's E-mail Response, dated April 27, 2011, is annexed and marked as Exhibit GCX J.

13. To date, Respondent has not filed an Answer to the Complaint.

14. The General Counsel submits that, as shown by the foregoing, Respondent's failure to file an Answer to the Complaint warrants the Board finding that Respondent admits the allegations of the Complaint to be true. *McGregor Building Services*, 234 NLRB 1054 (1978); Cf. *Carmody, Inc.*, 327 NLRB 262 (1998); *American Gem Sprinkler Co.*, 316 NLRB 102 (1995); *Sorensen Industries*, 290 NLRB 1132 (1988). The General Counsel further submits that an Order Granting Default Judgment is fully warranted and necessary in order to effectuate the purposes of the Act and to avoid unnecessary costs and delay. See, e.g., *Lake States Industrial Services, Inc.*, 349 NLRB No. 25 (2007) (*unpublished decision*).

NOW, THEREFORE, in accordance with Section 102.24 and 102.50 of the Board's Rules, the General Counsel respectfully requests that the Board transfer and continue this matter before it, that the Motion be ruled on immediately so that in the event the Motion is granted, the necessity for, and the expense of, a hearing will be obviated, that all of the allegations of the Complaint be deemed to be admitted to be true and so found, and that forthwith, without a hearing, the Board issue a Decision and Order containing such findings of facts and conclusions of law and a remedial order in accordance the allegations in the Complaint.

Dated at Albuquerque, New Mexico, this 3rd day of May 2011.

Respectfully submitted,

/s/ Liza Walker-McBride

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