



United States Government
NATIONAL LABOR RELATIONS BOARD

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May 24, 2011

Lester A. Heltzer
Office of the Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, DC 20570

Re: *Rogan Brothers Sanitation,*
Case No. 2-CA-40028

Dear Mr. Heltzer:

Counsel for the Acting General Counsel (“General Counsel”) respectfully submits this letter in opposition to Respondent’s May 23, 2011 request for a two-week extension of its time to respond to the Notice to Show Cause (the “Request”). On May 20, 2011, the Board issued a Notice to Show Cause in this matter requiring Respondent to show cause why General Counsel’s motion to strike and for summary judgment should not be granted. The Notice to Show Cause set Respondent’s time to answer on or before June 3, 2011. Respondent now requests an additional two weeks to submit its response, and General Counsel opposes this Request.

As an initial matter, General Counsel notes that Respondent solicited General Counsel’s position as to its request, and General Counsel informed Respondent of its opposition. However, Respondent failed to convey this information to the Board in its Request. Furthermore, Respondent’s Request does not reflect the Charging Party’s position as to its Request, nor does it reflect that Respondent made into inquiry into the Charging Party’s position.

As the basis for its Request, Respondent asserts that it requires “more time to examine and respond” to General Counsel’s motions because the motions “consist of over 100 pages and raise numerous issues.” The reference to the length of the motions is misleading; this total length is based on more than eighty pages of attached exhibits, not on arguments requiring a response. These exhibits, moreover, are all documents which Respondent either drafted or has previously received, and do not contain new information

requiring Respondent's examination. As to the "numerous issues" of which Respondent complains, General Counsel was required to discuss a number of issues in order to provide a response to Respondent's assertion of twenty-five affirmative defenses in its Answer. In other words, the vast majority of the supposedly "numerous issues" were initially raised by Respondent, not General Counsel. Responding to these issues should not create much difficulty for Respondent: either Respondent has a basis for its asserted defenses or it does not. As to the arguments which go to the heart of General Counsel's motions – that Respondent defaulted on the Settlement Agreement and summary judgment is proper under the Default Provisions of that Agreement – Respondent's response to these issues should also not prove difficult or time-consuming. Respondent has been well aware of these legal and factual issues since it signed the Settlement Agreement containing the Default Provisions in January 2011, and since it was notified of its default and failure to cure the default on March 9 and March 15, 2011, respectively.

Respondent also asserts that it is entitled to more time because of the intervening Memorial Day holiday. Clearly the Board was well-aware of this federal holiday when it set Respondent's time to respond and, without any further asserted conflict, the existence of this holiday does not require an extension of the time set by the Board.

Finally, the two-week response period set by the Board is entirely adequate to satisfy any due process rights implicated in this proceeding.

In short, Respondent has made numerous excuses over the past four months in order to avoid providing a remedy to its injured employees. This latest maneuver is simply Respondent's latest effort to forestall the day when it must finally provide a remedy to these employees. General Counsel respectfully urges the Board to reject this Request.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Julie Y. Rivchin". The signature is fluid and extends to the right with a long, sweeping tail.

Julie Y. Rivchin
Counsel for the Acting General Counsel

cc: Michael J. Mauro, Esq. (Counsel for Respondent) (*By email*)
Jane Lauer Barker, Esq. (Counsel for Charging Party) (*By email*)