

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

In the Matter of

SALON/SPA AT BORO, INC.

and

NATALIE ANN LAKES, AN INDIVIDUAL

and

ELIZABETH A. FRITH, AN INDIVIDUAL

Cases 9-CA-45349
9-CA-45426
9-CA-45538

MOTION FOR DEFAULT JUDGMENT

NOW COMES THE ACTING GENERAL COUNSEL, by the undersigned Counsel for the Acting General Counsel, and moves that:

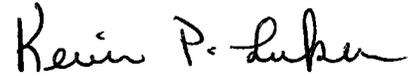
1. In order to effectuate the purposes of the National Labor Relations Act (the Act) and to avoid unnecessary costs or delay, the National Labor Relations Board (the Board) should exercise its power under Section 102.50 of the Board's Rules and Regulations, Series 8, as amended (the Board's Rules and Regulations) and transfer this proceeding to the Board.

2. Pursuant to Sections 102.56 and 102.114 of the Board's Rules and Regulations, Series 8, as amended, all allegations of the Compliance Specification and Notice of Hearing in this matter be deemed to be admitted to be true, and be so found by the Board for failure of Salon/Spa at Boro, Inc., herein called Respondent, to file an answer to the Compliance Specification and Notice of Hearing. (A copy of the Compliance Specification and proof of service is attached hereto as Exhibit A.)

3. A decision issue, including findings of fact and conclusions of law, and providing for a remedial order, in accordance with paragraph 2 above for the reasons set forth in the supporting memorandum filed herewith.

Dated at Cincinnati, Ohio this 8th day of September 2011.

Respectfully submitted,

A handwritten signature in black ink that reads "Kevin P. Luken". The signature is written in a cursive, flowing style.

Kevin P. Luken
Counsel for the Acting General Counsel
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

7/29/11

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COMPLIANCE SPECIFICATION
AND
NOTICE OF HEARING

On December 30, 2010, the National Labor Relations Board, herein called the Board, issued its Decision and Order (356 NLRB No. 69), herein called the Order, which, among other things, requires that Salon/Spa at Boro, Inc., herein called Respondent, make whole Natalie Ann Lakes, herein called Lakes, and Elizabeth A. Frith, herein called Frith, for any loss of earnings that they may have suffered as a result of Respondent's unfair labor practices in violation of Section 8(a)(1) of the National Labor Relations Act, as amended.

Controversy having arisen over the amounts of backpay due Lakes and Frith, herein together called the discriminatees, under the Order, as described above herein, the Regional Director of the National Labor Relations Board for Region 9, pursuant to Section 102.54 of the Rules, hereby issues this Compliance Specification and Notice of Hearing and alleges as follows:

1. The backpay period for Lakes begins on October 22, 2009, the date of her unlawful discharge, and continues until November 11, 2010, the expiration date of Respondent's offer of reinstatement. The backpay period for Frith begins on October 20, 2009, the date of her unlawful

discharge, and continues until November 11, 2010, the expiration date of Respondent's offer of reinstatement.

2. Gross backpay is the wages that the discriminatees would have earned during the backpay period but for the discrimination against them. Gross backpay for Lakes is calculated based on the average weekly wages that Lakes earned while employed at Respondent's facility from August 30, 2008 to October 17, 2009 (\$19,170 earned in 49 weeks for an average of \$391 per week) as set forth in Appendix A. Gross backpay for Frith is calculated based on the average weekly wages that Frith earned while employed at Respondent's facility from February 22, 2008 to October 24, 2009 (\$30,826 earned in 77 weeks for an average of \$400 per week) as set forth in Appendix A.

3. Interim earnings are the wages earned by the discriminatees at interim employers during the backpay period. The discriminatees had no deductible interim earnings.

4. Net backpay is the difference between gross backpay and interim earnings. No backpay is claimed for any calendar quarter in which the discriminatees were unavailable for employment. Lakes was unavailable for employment for two pay periods from July 4, 2010 to July 20, 2010. Total net backpay is the sum of calendar quarter net backpay.

5. The gross backpay by calendar quarter is herein alleged and the interim earnings and net backpay by calendar quarter are herein admitted for the discriminatees as set forth in Appendix A.

6. Summarizing the facts and calculations specified above and in Appendix A, the obligation of Respondent under the terms of the Order, to make the discriminatees whole for losses suffered as a result of Respondent's unlawful conduct will be discharged by payment to the discriminatees of the amounts set forth below, with daily compounded interest accruing on

the entire backpay amount to the date of payment, minus tax withholdings required by federal and state law.

Natalie Ann Lakes	\$21,114
Elizabeth A. Frith	\$22,400

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Section 102.56 of the Board's Rules and Regulations, it must file an answer to the compliance specification. The answer must be received by this office on or before **August 19, 2011**, or postmarked on or before **August 18, 2011**. Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office.

An answer may also be filed electronically through the Agency's website. *To file electronically, go to www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.* The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that

such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

As to all matters set forth in the compliance specification that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial is not sufficient. See Section 102.56(b) of the Board's Rules and Regulations, a copy of which is attached. Rather, the answer must state the basis for any disagreement with any allegations that are within the Respondent's knowledge, and set forth in detail Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the compliance specification are true. If the answer fails to deny allegations of the compliance specification in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the compliance specification are true and preclude Respondent from introducing any evidence controverting those allegations.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **October 3, 2011, 10 a.m., Room 3003, John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this compliance specification. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Cincinnati, Ohio this 29th day of July 2011.


Gary W. Muffley, Regional Director
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

Attachments

APPENDIX A

Natalie Ann Lakes				
Year and Quarter	Gross Backpay	Interim Earnings	Net Backpay	
2009 Q4	\$ 3,910	\$ -	\$ 3,910	
2010 Q1	\$ 5,083	\$ -	\$ 5,083	
2010 Q2	\$ 5,083	\$ -	\$ 5,083	
2010 Q3	\$ 4,301	\$ -	\$ 4,301	
2010 Q4	\$ 2,737	\$ -	\$ 2,737	
		\$ -		
Total:	\$ 21,114	\$ -	\$ 21,114	
Elizabeth A. Frith				
Year and Quarter	Gross Backpay	Interim Earnings	Net Backpay	
2009 Q4	\$ 4,000	\$ -	\$ 4,000	
2010 Q1	\$ 5,200	\$ -	\$ 5,200	
2010 Q2	\$ 5,200	\$ -	\$ 5,200	
2010 Q3	\$ 5,200	\$ -	\$ 5,200	
2010 Q4	\$ 2,800	\$ -	\$ 2,800	
		\$ -		
Total:	\$ 22,400	\$ -	\$ 22,400	