

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

STARRS GROUP HOME, INC.

and

Case 5-CA-36537

RAYMOND A. BARNES, AN INDIVIDUAL

**COUNSEL FOR THE ACTING GENERAL COUNSEL’S REPLY  
TO RESPONDENT STARRS GROUP HOME, INC.’S  
ANSWER WITH CAUSE TO THE NOTICE TO SHOW CAUSE**

Counsel for the Acting General Counsel files this Reply to Respondent Starrs Group Home, Inc.’s Answer with Cause to Notice of Transfer to the Board, Motion to Defer Default, Request for Postponement (herein referred to as “Response”), pursuant to the Board’s practice of receiving such replies, described in *D.L. Baker, Inc.*, 330 NLRB 521, p. 521 fn. 4 (2000). This Reply will address the arguments and assertions raised in the Response. The Reply will urge the Board to grant the Acting General Counsel’s Motion to Transfer Case to the Board and for Default Judgment (herein referred to as the “Motion”), which requests that the Board: (1) deem the allegations set forth in the Complaint and Notice of Hearing issued on June 22, 2011, in Case 5-CA-36537 to be true as alleged, without receipt of evidence; and (2) issue a Decision and Order containing findings of fact, conclusions of law, and an appropriate remedy for the violations alleged in the Complaint.

**I. Respondent Had Notice That It Was Required To Answer The Complaint At Least As Early As June 28, 2011.**

Respondent raises the unsupported defense that it did not know it was required to respond to the Complaint. Respondent does not deny that it was timely served with the Complaint on June 28, 2011. *See* Exhibit 4 of the Motion. Page three of the Complaint begins with the

heading “**ANSWER REQUIREMENT.**” Exhibit 3 to the Motion, at p. 3 (emphasis in original). That Complaint contains clear language stating that the Respondent “*must* file an answer to the complaint.” See Exhibit 3 to the Motion, at p. 3 (emphasis added). The Complaint next sets forth the Answer due date in bold underlined print, calling attention to the deadline. The Complaint further advises the Respondent that “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.” Exhibit 3 to the Motion, at p. 3. Thus, the Respondent had clear notice in plain, unambiguous terms of its obligation to timely file an Answer and of the consequences of a failure to do so. No legal training is required to understand this obligation; the Complaint even emphasized the “ANSWER REQUIREMENT’ and the due dates in special bold and underlined print.

At no time after it was served with the Complaint did Respondent contact Region 5 of the National Labor Relations Board to ask about the terms of the Complaint. If Respondent did not understand what was required of it, one would think it would have contacted the investigating field agent with such questions, particularly since the agent had communicated with Respondent regarding settlement as late as May 24, 2011.

In addition, Counsel for the Assistant General Counsel contacted Mr. Riddick Parker by telephone on July 15, 2011, at which time Counsel for the Assistant General Counsel again informed him of Respondent’s requirement to answer the Complaint. During that conversation, Counsel for the Assistant General Counsel told Mr. Parker that Respondent’s answer was overdue. Counsel for the Assistant General Counsel asked if Respondent planned to file an answer to the Complaint, to which Mr. Parker replied that Respondent planned to do so and was in the process of retaining counsel. Counsel for the Assistant General Counsel informed Mr. Parker that he would be granted more time to file an answer but that this time was limited to

fourteen days. Mr. Parker was further told that this extension would be confirmed by letter sent to Respondent and to expect the letter shortly.

On July 19, 2011, the Regional Attorney of Region 5 sent the letter to Respondent by certified mail which granted further time to answer by August 2, 2011. *See* Exhibit 6 to the Motion. Notice was left for Respondent on July 26, 2011, and despite knowing what the package pertained to, Respondent failed to pick up the letter until August 5, 2011. *See* Attachment 1, United States Postal Service website delivery confirmation; Exhibit 7 to the Motion.

Therefore, the evidence shows that Respondent has had notice since at least June 28, 2011, of its requirement to file an answer and was reminded of this requirement by the Region on multiple later occasions. Thus, the Board should not find merit in Respondent's defense that it did not know it had to answer the Complaint. *Sage Professional Painting Co.*, 338 NLRB 1068 (2003) (although the Board has shown some leniency to pro se respondents, merely being unrepresented by counsel does not establish a good-cause explanation for failing to file a timely answer) (citations omitted). Even as of today, more than three months after the initial due date and two months after the extended due date, Respondent has not filed an Answer to the Complaint.

## **II. Respondent's Claim That It Is Seeking Counsel Does Not Warrant Deferring Default In This Matter.**

In its Response, Respondent also claims that it is "in the process of retaining an attorney." This does not excuse Respondent's failure to answer the Complaint. This also does not provide reason, as Respondent claims, for further delay of these proceedings so that a yet-to-be-retained attorney have "time to become familiar and prepared to defend the Employer's position." Respondent has had five months in which to retain counsel but has failed to do so. It

chose not to retain counsel during investigation of this charge, which was filed on March 31, 2011, and at no time thereafter has it retained counsel. Additionally, Respondent claimed to have been seeking counsel as early as July 15, 2011, but had still not retained counsel by August 25, 2011, when it filed its Response. By requesting postponement based on its continued failure to retain counsel, Respondent shows that it is merely attempting to delay these proceedings even further. Therefore, in order to avoid further unwarranted delay which could prejudice the charging party, the Board should deny Respondent's request to defer default, answer the Complaint, and further postpone the proceedings.

WHEREFORE, Counsel for the Acting General Counsel respectfully requests that Respondent's Response containing a request to defer default judgment and postpone the hearing date be denied. In addition, Counsel for the Acting General Counsel respectfully requests, as previously requested in its Motion to Transfer Case to the Board and for Default Judgment, that the Board deem all matters alleged in the Complaint to be admitted as true, and that they be so found, and that a Decision and Order issue containing findings of fact, conclusions of law, and an appropriate remedy for the violations alleged in the Complaint.

Dated at Baltimore, Maryland, this 8th day of September, 2011.

Respectfully submitted,

/s/ Shannon A. Rogers  
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**CERTIFICATE OF SERVICE**

This is to certify that on September 8, 2011, copies of the Acting General Counsel's Reply to Respondent Starrs Group Home, Inc.'s Answer with Cause to the Notice to Show Cause were served by United Parcel Service overnight mail on the following and were notified by telephone of the substance of the transmission:

Ms. Barbara Parker  
Starrs Group Home, Inc.  
19 Placid Woods Court  
Baltimore, MD 21234

Mr. Raymond A. Barnes  
930 Lemon Street  
Baltimore, MD 21223

/s/ Shannon A. Rogers  
Shannon A. Rogers  
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Notice Left	July 26, 2011, 2:52 pm	PARKVILLE, MD 21234	
Missent	July 22, 2011, 8:15 am		
Arrival at Unit	July 22, 2011, 8:13 am	DUNDEE, IL 60118	
Processed through Sort Facility	July 22, 2011, 2:18 am	CAROL STREAM, IL 60199	

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ATTACHMENT 1