

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

LONG MECHANICAL, INC.

Respondent

and

**CASES 07-CA-052917
07-CA-053146
07-CA-053200**

**LOCALS 98 AND 636, UNITED ASSOCIATION OF
JOURNEYMEN AND APPRENTICES OF THE
PLUMBING AND PIPE FITTING INDUSTRY OF THE
UNITED STATES AND CANADA, AFL-CIO**

Charging Parties

**RESPONSE TO RESPONDENT'S STATEMENT IN OPPOSITION OF
COUNSEL FOR THE ACTING GENERAL COUNSEL'S MOTION TO
TRANSFER CASES TO AND CONTINUE PROCEEDINGS BEFORE THE
BOARD AND FOR DEFAULT JUDGEMENT**

Now comes Patricia A. Fedewa and Jennifer Brazeal, Counsel for the Acting General Counsel in this matter, files this Response to Respondent's Statement in Opposition of Counsel for the Acting General Counsel's Motion to Transfer Cases To and Continue Proceedings Before the Board and for Default Judgment. On October 10, 2011, Counsel for the Acting General Counsel filed Motions to Transfer Cases to and Continue Proceedings Before the Board and for Default Judgment. On October 28, 2011, Respondent filed a Statement in Opposition to Counsel for the Acting General Counsel's motion.

In its Statement in Opposition, Respondent argues that the settlement agreement in Cases 07-CA-053473, 07-CA-053572, and 07-CA-060379, is

somehow related to the Counsel for the Acting General Counsel's Motion for Default Judgment in Cases 07-052917, 07-CA-053146, and 07-CA-053200. Respondent's argument in this regard is wholly without merit. There is no mention of 07-CA-053473 et al. in the Motion for Default Judgment. Although these cases involve the same Respondent, Cases 07-CA-052917 et al. and 07-CA-054373 et al. are completely separate matters and have been handled as such. Moreover, the settlement in Cases 07-CA-053473 et al. occurred on October 14, 2011, after the Motion for Default Judgment was filed. When the Motion for Default Judgment was filed, Counsel for the Acting General Counsel was unaware of how the litigation in Case 07-CA-053473 et al. would be resolved. Indeed, Counsel for the General Counsel avers that Case 07-CA-054373 et al. is not relevant to its Motion For Default Judgement in Case 07-CA-052917 et al.

Similarly, Respondent's denials of the reissued complaint¹ are irrelevant. When Respondent breached the settlement agreement² in Case 07-CA-052917 et al., it waived its rights to respond to the allegations in the reissued complaint. The non-compliance provision of the settlement agreement states:

The Charged Party agrees that in case of noncompliance with any of the terms of this settlement agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such noncompliance without remedy by the Charged Party, the Regional Director may reissue the complaint in this matter. The General Counsel may then file a motion for default judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees

¹ Exhibit DD of Counsel for the Acting General Counsel's filed Motions to Transfer Cases to and Continue Proceedings Before the Board and for Default Judgment

² Exhibit O of Counsel for the Acting General Counsel's Motions to Transfer Cases to and Continue Proceedings Before the Board and for Default Judgment.

that the allegations of the reissued complaint may be deemed to be true by the Board and its answer to such complaint shall be considered withdrawn. The Charged Party also waives the following: (a) filing of answer; (b) hearing; (c) administrative law judge's decisions; (d) filing of exceptions and briefs; (e) oral argument before the Board; (f) the making of findings of fact and conclusions of law by the Board; and (g) all other proceedings to which a party may be entitled under the Act or the Board's Rules and Regulations. On receipt of said motion for default judgment, the Board shall issue an order requiring the Charged Party to show cause why said motion of the General Counsel should not be granted. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party, on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is customary to remedy such violations. The parties further agree that the Board's order and U.S. Court of Appeals judgment may be entered thereon ex parte. (Emphasis supplied)


Respondent has not shown good cause why Counsel for the Acting General Counsel's Motion for Default Judgment should not be granted. As described in detail in Counsel for the General Counsel's Motion for Default Judgment, Respondent has violated the terms of the settlement agreement in Case 07-CA-052917 et al. In its Statement in Opposition, Respondent merely asserts, in one sentence, that it has not breached the settlement agreement.³ Indeed it failed to respond to any of the six specific allegations set forth in Counsel for the Acting General Counsel's Motion that it has breached the settlement agreement. Just as a blanket denial is not a sufficient response to a complaint or compliance specification (Rules and Regulations, Sections 102.20 and 102.56(b)), Counsel for

³ Page two of Respondent's Statement in Opposition.

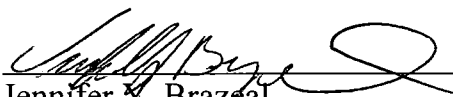
the Acting General Counsel contends that a blanket response to the Motion for Default Judgment is not sufficient to establish that an issue of material fact exists.

WHEREFORE, Counsel for the Acting General Counsel respectfully moves that the Board grant the Motions to Transfer Cases To And Continue Proceedings Before the Board and for Default Judgment, that the Board further issue an order finding all allegations of the reissued Consolidated Amended Complaint to be true and provide for a full remedy consistent with that Consolidated Amended Complaint.

Respectfully submitted this 23rd day of November, 2011



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CERTIFICATE OF SERVICE

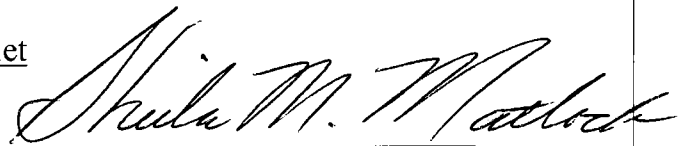
I certify that on the 23rd day of November, 2011, I electronically served copies of Response To Respondent's Statement In Opposition Of Counsel For The Acting General Counsel's Motion To Transfer Cases To And Continue Proceedings Before The Board And For Default Judgement to the following parties of record:

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