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Henry Rodriguez Sr., Henry Rodriguez Jr., Monica Pritchett, and Christopher Pritchett, a California General Partnership d/b/a Life's Connections and Chris Mora and Constance Sifton.
Cases 32-CA-068654 and 32-CA-068656

March 20, 2013

SUPPLEMENTAL DECISION AND ORDER
BY CHAIRMAN PEARCE AND MEMBERS GRIFFIN
AND BLOCK

The Acting General Counsel seeks default judgment in this case on the ground that the Respondent has failed to file an answer to the compliance specification.

On September 18, 2012, the National Labor Relations Board issued a Decision and Order,¹ that, among other things, ordered Henry Rodriguez Sr., Henry Rodriguez Jr., Monica Pritchett, and Christopher Pritchett, a California General Partnership d/b/a Life's Connections (the Respondent) to make discriminatees Chris Mora and Constance Sifton whole for any loss of earnings and other benefits resulting from the Respondent's unfair labor practices in violation of Section 8(a)(1) and Section 8(a)(3) and (1) of the Act. On November 6, 2012, the United States Court of Appeals for the Ninth Circuit entered its judgment enforcing the Board's Order.²

A controversy having arisen over the amount of backpay due the discriminatees, on December 19, 2012, the Regional Director issued a compliance specification and notice of hearing alleging the amount due under the Board's Order and notifying the Respondent that an answer should be filed by January 9, 2013, complying with the Board's Rules and Regulations.³ Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated January 25, 2013, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an answer was filed by the close of business on February 1, 2013, a mo-

tion for default judgment would be filed.⁴ Nevertheless, no answer was filed.

On February 6, 2013, the Acting General Counsel filed with the Board a motion for default judgment, with exhibits attached. On February 8, 2013, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

Ruling on the Motion for Default Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that a respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) provides that if the respondent fails to file an answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the motion for default judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and we grant the Acting General Counsel's Motion for Default Judgment. Accordingly, we conclude that the gross backpay due the discriminatees is as stated in the compliance specification, and we will order the Respondent to pay those amounts, plus additional backpay that may accrue in the absence of a valid offer of reinstatement, plus interest accrued to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Henry Rodriguez Sr., Henry Rodriguez Jr., Monica Pritchett, and Christopher Pritchett, a California General Partnership d/b/a Life's Connections, Hollister, California, and San Jose, California, its officers, agents, successors, and assigns, shall make whole discriminatees Chris Mora and Constance Sifton by paying them the amounts following their names, plus additional backpay that may accrue in the absence of a valid offer of reinstatement, plus interest accrued to the date of payment, as prescribed in *New Horizons for the Retarded*, 283

¹ 358 NLRB No. 139.

² No. 12-73360.

³ The Acting General Counsel's motion and attachments confirm that the Respondent and each of the four partners individually were properly served with the compliance specification at both their business and home addresses. The Region also served the compliance specification on Attorney Gary J. Clifford, who, although he did not enter a notice of appearance, had represented to the Region in the underlying case that he represented Monica Pritchett and Christopher Pritchett in a private lawsuit involving the Respondent.

⁴ Reminder letters were also sent to each of the four partners individually at both their business and home addresses, and to Attorney Clifford.

NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), and minus tax withholdings required by Federal and State laws:⁵

Chris Mora	\$24,222
Constance Sifton	15,687
Total Backpay Due	\$39,909

Dated, Washington, D.C. March 20, 2013

⁵ In *Latino Express*, 359 NLRB No. 44 (2012), the Board adopted two new remedies: the first requiring respondents to submit appropriate documentation to the Social Security Administration allocating backpay, when it is paid, to the appropriate calendar quarters; and the second requiring respondents to reimburse employees for any additional income taxes they owe as a consequence of receiving a lump-sum backpay award covering more than 1 calendar year. The Board decided to apply both remedial policies retroactively, but not to apply the second to cases, such as this one, that already were in the compliance stage on the date *Latino Express* issued. *Id.* at slip op. 4 fn. 36. We note that nothing in *Latino Express* prevents the Acting General Counsel from requesting that the Board modify a previously issued order in a pending case to include an applicable remedy, at least where the Board still has jurisdiction to do so. That is not the case here, however. See *Scepter, Inc. v. NLRB*, 448 F.3d 388, 390–391 (D.C. Cir. 2006) (Board has no authority to modify the remedy in a court-enforced order).

Mark Gaston Pearce,	Chairman
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Richard F. Griffin, Jr.,	Member
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Sharon Block,	Member
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