

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 92-17

March 13, 1992

TO: All Regional Directors, Officers-in-Charge,  
and Resident Officers

FROM: William G. Stack, Deputy Associate General Counsel

SUBJECT: Processing Compliance Appeals Under Section 102.52  
of the Board's Rules and Regulations (Ace Beverage)

This memorandum will establish uniformity in processing compliance appeals under Section 102.52 of the Rules, <sup>1</sup> particularly with the provision that the charging party may request review of the General Counsel's denial of the charging party's appeal to the Regional Director's determination that the respondent has complied with the Board's order. <sup>2</sup> As you know, Section 102.52 of the Rules provides that a charging party may appeal a Regional Director's determination that a respondent has complied with the remedial provisions of the Board's decision and order by filing an appeal with the General Counsel. <sup>3</sup> If the General Counsel denies the appeal, the charging party may file a request for review of that action with the Board.

If a request for review of the General Counsel's action is filed with the Board, the record before the Board will normally be the charging party's request for review, the letter setting forth the Regional Director's reasons for determining that the respondent has complied with the Board's order, and the Office of Appeals' letter denying the appeal and notifying the charging party of its right to file a request for review of the Board. In a number of recent cases, these documents did not provide the Board with sufficient information to rule upon the charging party's request for review.

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- 1 The November 13, 1988 amendment of Section 102.52 codified the Board's holding in Ace Beverage Corporation, 250 NLRB 646 (1980), that final determination of whether a respondent has complied with the Board's order rests with the Board.
  - 2 The compliance procedures established under Section 102.52 of the Rules apply only to cases in which the Board has issued a decision and order and do not apply to appeals to the Regional Director's approval of an informal settlement agreement under Section 101.9 of the Statements of Procedure.
  - 3 Such appeals are processed by the Office of Appeals.

In order to ensure that the Board has before it sufficient information to fulfill its responsibilities under Section 102.52, the Regional Office should carefully review charging party's request for review. If the Region concludes that the charging party has raised no issues not considered and discussed in the Regional Director's and/or the General Counsel's letters, the Region should advise the Board as promptly as possible. If, on the other hand, the Region concludes that the request for review raises issues not discussed (or not fully discussed) in the documents before the Board, the Region should advise the Board that a response will be filed and the approximate date such response will be forthcoming. The Region's response may be in the form of a memorandum to the Board to which you may attach public documents to supplement the existing record. In either case, any response including documents or exhibits must be served upon the charging party and the Board provided with an affidavit of service.

If you have any questions regarding these procedures, please contact your Assistant General Counsel.

  
W. G. S.

cc: NLRBU

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