

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

In the Matter of

BLSI, LLC

and

Case 9-CA-46091

INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 18, AFL-CIO

MEMORANDUM IN SUPPORT OF  
MOTION FOR DEFAULT JUDGMENT

1. Upon a charge (a copy with proof of service is attached to Motion as Exhibit A) filed by International Union of Operating Engineers, Local 18, AFL-CIO, herein called the Union, alleging that BLSI, LLC, herein called Respondent, has been engaging in unfair labor practices as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. 151, et seq., herein called the Act. The Acting General Counsel of the National Labor Relations Board, herein called the Board, by the undersigned pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, Series 8, as amended, issued a Complaint and Notice of Hearing (a copy with proof of service is attached to Motion as Exhibit B), on January 24, 2011, against Respondent alleging violations of Section 8(a)(1) and (5) of the Act.

2. The complaint notified Respondent that under Sections 102.20 and 102.21 of the Board's Rules and Regulations, Respondent had an obligation to timely file an answer and that the answer must be received by the Regional Office on or before February 7, 2011, or postmarked before February 4, 2011, and if no answer is filed, the Board may find, pursuant to a

Motion for Default Judgment, that the allegations in the complaint are true. Respondent did not file an answer within the required time and did not request an extension of time in which to file an answer.

3. On January 26, 2011, Attorney Thomas Kendo, Jr. was appointed administrator of the estate of Gordon L. Wray, Jr., Respondent's owner. (A copy of the Entry Appointing Fiduciary is attached as Exhibit A.) Counsel for the Acting General Counsel notified Mr. Kendo, by letter dated February 4, 2011, of Respondent's obligation to file an answer to the complaint. (A copy of the letter is attached hereto as Exhibit B.) When no answer was received by February 7, Counsel for the Acting General Counsel sent a letter to Mr. Kendo advising that unless an answer were filed by close of business on February 11, 2011, the undersigned would file with the Board a Motion for Default Judgment requesting that all allegations of the complaint be deemed admitted as true. (A copy of the letter is attached hereto as Exhibit C.) To date, Respondent has not filed an answer or made any reply to either letter.

4. Inasmuch as Respondent has failed to file an answer as required by the Board's Rules and Regulations and has failed to give any reason why it has not done so, Counsel for the Acting General Counsel's Motion for Default Judgment should be granted. It is well settled that if a party charged with an unfair labor practice in a complaint fails to file an answer to the complaint within the time and in the manner prescribed by the Board's Rules and Regulations, all allegations in the complaint are deemed to be admitted to be true and may be so found by the Board, and judgment may be rendered on the basis of the complaint alone. *Bay Recycling, Inc.*, 292 NLRB 1289 (1989); *Neal B. Scott Commodities, Inc.*, 238 NLRB 32, 33 (1978).

WHEREFORE, Counsel for the Acting General Counsel moves that all of the allegations of the complaint be deemed admitted to be true and be so found by the Board and prays for the relief sought in the Motion for Default Judgment and as pled for in the complaint.

Dated at Cincinnati, Ohio this 22nd day of February 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jonathan D. Duffey". The signature is stylized with a large initial "J" and a long horizontal stroke at the end.

Jonathan D. Duffey  
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

Attachments: Exhibits A, B and C

PROBATE COURT OF MONTGOMERY COUNTY, OHIO  
ALICE O. MCCOLLUM, JUDGE

ESTATE OF Gordon L. Wray, Jr. DECEASED  
CASE NO. 2011 EST 00130

FILED  
2011 JAN 26 1:21  
ALICE O. MCCOLLUM  
PROBATE JUDGE  
MONTGOMERY COUNTY, OHIO

ENTRY APPOINTING FIDUCIARY; LETTERS OF AUTHORITY  
[For Executors and all Administrators]

Name and Title of Fiduciary Thomas W. Kendo, Jr.  
Administrator

On hearing in open Court the application of the above fiduciary for authority to administer decedent's estate, the Court finds that;

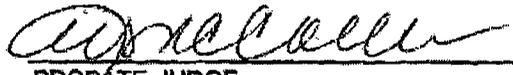
Decedent died [check one of the following]  testate -  intestate - on 07/28/2010  
domiciled in Dayton, Ohio

[Check one of the following]  Bond is dispensed with by the Will -  Bond is dispensed with by law -   
Applicant has executed and filed an appropriate bond, which is approved by the Court; and

Applicant is a suitable and competent person to execute the trust.

The Court therefore appoints applicant as such fiduciary, with the power conferred by law to fully administer decedent's estate. This entry of appointment constitutes the fiduciary's letters of authority.

Date JAN 26 2011

  
PROBATE JUDGE  
Alice O. McCollum

CERTIFICATE OF APPOINTMENT AND INCUMBENCY

The above document is a true copy of the original kept by me as custodian of the records of this Court. It constitutes the appointment and letters of authority of the named fiduciary, who is qualified and acting in such capacity.

[Seal]

Probate Judge / Clerk  
Alice O. McCollum.

by \_\_\_\_\_

Date \_\_\_\_\_

FORM 4.5 - ENTRY APPOINTING FIDUCIARY; LETTERS OF AUTHORITY

EXHIBIT A

**PROBATE COURT OF MONTGOMERY COUNTY, OHIO**  
**ALICE O. MCCOLLUM, JUDGE**

ALICE O. MCCOLLUM  
PROBATE JUDGE  
MONTGOMERY CO. OHIO  
JAN 27 11:27 AM  
DECEASED

ESTATE OF Gordon L. Wray, Jr.

CASE NO. 2011 EST 00130

**FIDUCIARY'S ACCEPTANCE**  
**(EXECUTOR / ADMINISTRATOR)**

I, the undersigned, hereby accept the duties which are required of me by law, and such additional duties as are ordered by the Court. As executor/administrator of the estate I will:

1. Give notice of the admission of the will to probate to all next of kin and legatees and devisees and file a certificate of notice of probate of will form with the court within 2 months of my appointment.
2. Make and file any inventory of the real and personal assets of the estate within 3 months of my appointment, or within such time as extended by the Court.
3. Deposit funds which come into my hands in a lawful depository located within this State and keep estate funds in separate estate accounts at all times during the estate administration.
4. Invest all funds in a lawful manner.
5. Make and file a final and distributive account within 6 months of my appointment unless this time period is extended by law or order of the Court.
6. File all estate or income tax documents as required by law.
7. Maintain adequate insurance to reasonably protect any property that I hold as a fiduciary.
8. Obey all orders of the Court.

I acknowledge that I am subject to removal as fiduciary if I fail to perform my duties. I further acknowledge that I may be subject to civil and criminal penalties for improper use of the property that I hold as a fiduciary. I further acknowledge that I am not allowed to have any personal dealings with the estate, including purchasing items from the estate.

NOTICE: Attorney fees shall not be paid until the final account is prepared for filing unless otherwise approved by the Court or the consent of all beneficiaries.

Date \_\_\_\_\_

Fiduciary   
Thomas W. Kendo, Jr.



United States Government

## **NATIONAL LABOR RELATIONS BOARD**

Region 9

3003 John Weld Peck Federal Building

550 Main Street

Cincinnati, Ohio 45202-3271

Telephone: (513) 684-3633

Facsimile: (513) 684-3946

February 4, 2011

Mr. Thomas W. Kendo, Jr., Attorney  
7925 Paragon Rd.  
Centerville, OH 45459

RE: BLSI, Inc.  
Case: 9-CA-46091

Dear Mr. Kendo:

I am the trial attorney assigned to the above captioned case. Enclosed please find a complaint issued against BLSI, Inc. by the National Labor Relations Board. Please note that an answer to the complaint must be received by this office on or before February 7, 2011. If you have any questions or would like to discuss settlement possibilities, please call me at 513/684-3633.

Very truly yours,

Jonathan D. Duffey  
Attorney

EXHIBIT B



United States Government

**NATIONAL LABOR RELATIONS BOARD, Region 9**

John Weld Peck Federal Building

550 Main Street - Room 3003

Cincinnati, Ohio 45202-3271

TELEPHONE: (513) 684-3633

FAX: (513) 684-3946

February 8, 2011

Mr. Thomas W. Kendo, Attorney  
7925 Paragon Rd.  
Centerville, Ohio 45459

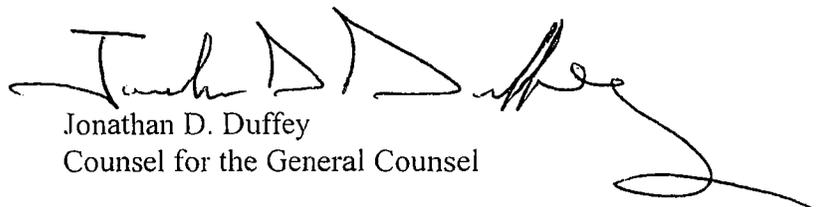
Re: BLSI, LLC  
Case 9-CA-46091

Dear Mr. Kendo:

I am Counsel for the General Counsel in the above captioned case which is scheduled for hearing on March 10, 2011. It appears that BLSI, LLC, has not filed an Answer to the Complaint which issued in this case on January 24, 2011. The Complaint was served upon BLSI, Inc. by certified mail on January 24, 2011 and an answer was due February 7, 2011. Accordingly, this is to advise that unless Respondent's Answer is received in the Regional Office by close of business on February 11, 2011, I, will promptly file a Motion for Default Judgment requesting that all allegations of the Complaint which are not specifically denied be deemed to be admitted to be true. Please find enclosed a copy of the Complaint and Notice of Hearing which explains the requirements for filing an Answer under Sections 102.20 and 102.21 of the Board's Rules and Regulations and the consequences for failing to file an Answer. If you need additional time to file an answer, please submit a written request to the Region prior to February 11.

In the event you have any other questions please do not hesitate to contact me at, 513-684-3633.

Very truly yours,



Jonathan D. Duffey  
Counsel for the General Counsel

EXHIBIT C