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Jung Sun Laundry Group Corporation and Laundry, Distribution and Food Service Joint Board Workers United, affiliated with SEIU.¹ Case 29–CA–29946

August 26, 2011

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS PEARCE
AND HAYES

The Acting General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the compliance specification. On November 30, 2010, the Board issued an unpublished Order² that found, among other things, that the Respondent violated Section 8(a)(3) and (1) of the Act by failing to reinstate striking employees upon their unconditional offer to return to work, and that it violated Section 8(a)(5) and (1) of the Act by delaying and unilaterally failing to continue to make contractually-required contributions to the Union's Health, Retirement and Legal Education Funds. The Board ordered the Respondent, among other things, to offer full reinstatement to its striking employees and to make them whole for loss of earnings and other benefits resulting from the discrimination against them; and to reimburse the Union's funds for any and all contributions due and owing as a result of its unlawful failure to adhere to existing terms and conditions of employment. On January 24, 2011, the United States Court of Appeals for the Second Circuit entered its judgment enforcing the Board's Order.³

A controversy having arisen over the amount of backpay due discriminatees and contributions due the funds, on June 30, 2011, 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 it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification,⁴ the Respondent failed to file an answer.

¹ The Union was formerly called the Laundry, Dry Cleaning and Allied Workers Joint Board, Workers United, A Service Employees International Union Affiliate.

² Unpublished Order adopting, in the absence of exceptions, the decision of Administrative Law Judge Keltner W. Locke issued on October 21, 2010 (JD-22-10).

³ No. 10-4874.

⁴ The Acting General Counsel's Motion for Default Judgment indicates that the compliance specification was served on the Respondent

By letter dated July 25, 2011, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an answer was received by August 1, 2011, a motion for default judgment would be filed. To date, the Respondent has failed to file an answer.

On August 4, 2011, the Acting General Counsel filed with the Board a Motion for Default Judgment, with exhibits attached. On August 8, 2011, 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.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

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 Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the Acting General Counsel's Motion for Default Judgment.

Accordingly, we conclude that the net backpay due the discriminatees and the contributions due the specified benefit funds are as stated in the compliance specification and we will order the Respondent to pay those amounts, plus interest accrued to the date of payment.

by certified mail and on the Respondent's officer, Tony Yang a/k/a Xuefeng Yang ("Yang") by regular mail. However, the document served on the Respondent by certified mail was returned to the Regional Office marked as "unclaimed." It is well settled that a respondent's failure or refusal to accept certified mail or to provide for appropriate service cannot serve to defeat the purposes of the Act. See, e.g., *I.C.E. Electric, Inc.*, 339 NLRB 247, 247 fn. 2 (2003), and cases cited therein. Further, the failure of the Postal Service to return documents served by regular mail indicates actual receipt of those documents. *Id.*; *Lite Flight, Inc.*, 285 NLRB 649, 650 (1987), *enfd.* 843 F.2d 1392 (6th Cir. 1988).

ORDER

The National Labor Relations Board orders that the Respondent, Jung Sun Laundry Group Corporation, Long Island, New York, its officers, agents, successors, and assigns, shall make whole the individuals named in Attachment A, by paying them the amounts following their names, plus interest accrued to the date of payment, as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), minus tax withholdings required by Federal and State Laws. Summarizing these amounts, the Respondent is obligated to pay the employees backpay totaling \$1,571,940.14.⁵ The Respondent shall also pay the Laundry & Dry Cleaning Workers and Allied Health Industries Health Fund (Health Fund); the Laundry, Dry-Cleaning Workers & Allied Industries Retirement Fund (Retirement Fund); and the Laundry & Dry-Cleaning Workers, UNITE-HERE, Education and Legal Services Fund (Education and Legal Services Fund) the amounts set forth below, plus interest accrued to the date of payment, as prescribed in *Merryweather Optical Co.*, 240 NLRB 1213 (1979).

Health Fund:	\$227,997.07
Retirement Fund	25,510.16
Education and Legal Services Fund:	6,377.54
TOTAL DUE FUNDS:	259,884.77
Backpay:	1,571,940.14
TOTAL AMOUNT DUE:	\$1,831,824.91

Dated, Washington, D.C. August 26, 2011

Wilma B. Liebman, Chairman

Mark Gaston Pearce, Member

Brian E. Hayes, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

⁵ We correct the following mathematical errors in the compliance specification: (1) the total amount due Joseph Lowman is \$14,060.13, as shown on Appendix A-49 to the specification, rather than \$14,060.21, as shown on Appendix C; (2) the total amount due all unit employees is \$1,571,940.14 rather than \$1,571,940.22; and (3) the total amount owed is \$1,831,824.91 rather than \$1,831,824.99. This figure does not include the backpay owed to discriminatees MD Sanu Miah and Raman Yusey because the amount owed to them is currently unknown.

ATTACHMENT A

NAME	NET BACKPAY
Ahmed, Jamal Uddin	\$18,767.90
Akhtar, Parul	\$14,856.50
Akther, Nurjahan	\$18,573.86
Akther, Sufia	\$15,764.20
Alam, Ohaheda	\$18,530.25
Ali, Farjana Yasmin	\$3,155.52
Ali, Mohammad W.	\$22,610.97
Arryoyo, Dennis	\$22,095.00
Augustyn, Oliver	\$26,225.29
Bacchus, Olivia	\$0.00
Begom, Misses Afia	\$18,435.27
Begum, Fatama	\$9,686.32
Begum, Momtaz	\$16,648.16
Begum, Murshida	\$17,354.95
Begum, Rahima	\$16,441.87
Begum, Shanaz	\$17,809.91
Begum, Shefali	\$13,728.20
Bhattacharjee, Supriyo	\$20,009.56
Blanco, Carlos	\$30,330.57
Bridges, Bicell	\$23,288.15
Bullock, James	\$21,039.05
Cabrera, Luis	\$19,274.56
Choudhury, Shamsul I.	\$15,638.27
Contrera, Juana	\$13,990.48
Das, Kanika	\$15,785.27
Davis, Darryl	\$25,407.40
Dela Cruz, Jose	\$18,137.76
Dey, Sunil Krishna	\$19,067.29
Diaz, Maria	\$7,330.36
Dumornay, Henry Robert	\$8,057.07
Gallego, Carlos A.	\$17,455.23
Garcia, Anisele	\$18,705.18
Gonzalez, Michael A.	\$19,384.81
Haque, Mohd. Khoyal	\$14,500.00
Hernandez, Ramon	\$18,512.61
Holquin, Jose	\$18,941.85
Hogue, Suracya	\$10,534.92
Hossain, MD Hammad	\$20,306.01
Hossain, Iqbal	\$13,351.44
Hossen, MD A.	\$9,903.39
Hughley, Charles	\$13,924.74
Jabbar, Abdul	\$6,329.74

Jenkins Thomas	\$21,296.30	White, Joseph	\$11,213.16
Khatun, Fatema	\$8,577.86	Williams, Donald	\$22,705.54
Khatun, Morun	\$17,714.89	Yasmin, Mosammat H.	\$17,157.19
Kukila, Sultana	\$17,877.57	Yeasmin, Mosammat Sabina	\$17,657.56
Lanfranco, Geronimo	\$19,448.14	Yusey, Raman	
Lopez, Ramon	\$20,368.36		
Lowman, Joseph	\$14,060.13	TOTAL	\$1,571,940.14
Martinez, Angel S.	\$22,194.55		
Martinez, Clara	\$18,326.41		
Martnez, Victoria	\$18,526.04		
Miah, MD Sanu			
Momen, Abdul	\$14,633.28		
Moriah, Lorenzo	\$12,124.97		
Murad, Hassan	\$11,400.26		
Nunez, Jose	\$17,392.47		
Obas, Joseph	\$21,609.41		
Ortiz, Luis Jose	\$21,419.37		
Parvin, Shahanaro	\$6,401.28		
Parvin, Syeda Rokeya	\$18,639.03		
Pena, Julio	\$21,592.26		
Peralata, Modesto A.	\$20,607.36		
Perez, Jose	\$25,449.54		
Perez, Margarita	\$18,140.21		
Prado, Melissa	\$13,091.25		
Quezada, Marcelina	\$10,120.64		
Rabbani, Gulam	\$19,008.00		
Rahman, Fateha	\$19,297.10		
Rahman, MD Mostafizur	\$21,803.85		
Raspberry, Don K.	\$16,875.11		
Raymundo, Guillermo	\$18,726.78		
Reynoso, Rosaura	\$19,260.84		
Rivera, Eugenio	\$33,361.57		
Rivera, Luis	\$20,772.98		
Rodriguez, Alcedo	\$20,670.61		
Rodriguez, Jose	\$22,325.42		
Rodriguez, Reynaldo A.	\$18,736.05		
Rosario, Saturnino	\$18,858.67		
Salam, Abdus	\$17,603.66		
Shiddika, Most Shaila	\$12,842.33		
Soto, Felix	\$21,419.41		
Torres, Francia	\$18,457.07		
Uddin, MD Faruk	\$17,767.81		
Uddin, Mohammed	\$26,967.96		
Varela, Wilfredo	\$18,458.22		
Villa, Luz	\$19,091.79		