

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

LINDA CONSTRUCTION, INC.

and

Case 13-CA-125200

**EXCAVATING, GRADING, ASPHALT,
PRIVATE SCAVENGERS, AUTOMOBILE
SALESROOM GARAGE ATTENDANTS,
AND LINEN AND LAUNDRY LOCAL UNION
NO. 731, AFFILIATED WITH THE
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS**

**MOTION TO TRANSFER PROCEEDINGS TO THE
BOARD AND MOTION FOR DEFAULT JUDGMENT**

Pursuant to Section 102.56 of the Board's Rules and Regulations, Series 8, as amended, Counsel for the General Counsel files this Motion to Transfer Proceedings to the Board and Motion for Default Judgment. These Motions are made upon the assertion that the General Counsel is entitled to judgment pursuant to Section 102.56(c) of the Board's Rules and Regulations, inasmuch as Linda Construction, Inc. (Respondent) has failed to file an Answer to the Compliance Specification and Notice of Hearing.

In support of said Motions, Counsel for the General Counsel respectfully submits the following:

1. On September 30, 2014, the National Labor Relations Board (the Board) issued its Order granting the General Counsel's Motion for Default Judgment on the grounds that Respondent failed to file an Answer to the Complaint and Notice of Hearing. The Board's Order directed the Respondent to take certain affirmative actions as a result of Respondent's violations of Section 8(a) (5) and 8(a) (1) of the Act. The Board Order is attached as Exhibit 1.
2. On July 6, 2015, the Regional Director for Region 13, Peter Sung Ohr, issued a Compliance Specification and Notice of Hearing. The Compliance Specification advised the Respondent that if Respondent failed to file an Answer responsive to the Compliance Specification within 21 days from the date of the Specification all allegations in the Specification would be deemed to be admitted true and that a Motion for Default Judgment would be filed immediately with the Board. The Compliance Specification and Affidavit of Service are attached as Exhibits 2 and 3.

3. On August 7, 2015, Respondent was sent a letter by certified mail, return receipt requested, from J. Edward Castillo, an attorney for Region 13 of the Board, stating Respondent failed to file an Answer to the outstanding Compliance Specification within the time required under Section 102.56 of the Board's Rules and Regulations, and that if an Answer was not filed by close of business on August 14, 2015, a Motion for Default Judgment would be filed with the Board. A copy of the "last chance" letter and the certified mail receipts are attached as Exhibits 4 and 5.
4. Respondent failed to file an Answer to the Compliance Specification by the close of business on August 14, 2015, or at any time thereafter, and none is anticipated. Based on the foregoing, it is clear that a hearing in this matter is not necessary and that, pursuant to Section 102.56(c) of the Board's Rules and Regulations, an Order may be granted finding the allegations in the Compliance Specification to be true without further proceedings herein.

WHEREFORE, Counsel for the General Counsel respectfully moves the Board to grant the Motion for Default Judgment, finding all of the allegations in the Compliance Specification to be true without taking any additional evidence in support of the allegations, and without further notice to the Respondent, and to issue an appropriate Order.

Dated at Chicago, Illinois, this 27th day of August, 2015.

/s/ Elizabeth S. Cortez

Elizabeth S. Cortez
Counsel for the General Counsel
National Labor Relations Board
Region 13
209 South LaSalle Street, Suite 900
Chicago, IL 60604

Attachments

NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Linda Construction, Inc. and Excavating, Grading, Asphalt, Private Scavengers, Automobile Salesroom Garage Attendants, and Linen and Laundry Local Union No. 731, affiliated with the International Brotherhood of Teamsters. Case 13–CA–125200

September 30, 2014

DECISION AND ORDER

BY MEMBERS HIROZAWA, JOHNSON, AND SCHIFFER

The General Counsel seeks a default judgment in this case on the ground that the Respondent has withdrawn its answer to the complaint. Upon a charge and an amended charge filed by Excavating, Grading, Asphalt, Private Scavengers, Automobile Salesroom Garage Attendants, and Linen and Laundry Local Union No. 731, affiliated with the International Brotherhood of Teamsters (the Union) on March 26 and May 16, 2014, respectively, the General Counsel issued a complaint on May 30, 2014, against Linda Construction, Inc. (the Respondent) alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. The Respondent filed an answer to the complaint. However, on July 29, 2014, the Respondent filed a motion to withdraw its answer, and on August 7, 2014, the Regional Director granted that motion.

On August 11, 2014, the General Counsel filed a Motion for Default Judgment with the Board. On August 12, 2014, 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 filed no response. The allegations in the motion are therefore undisputed.

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

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was received by June 13, 2014, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Although the Respondent filed an answer on July 10, 2014, it subsequently withdrew its answer. Such a withdrawal of an answer has the same effect as a failure to file an answer, i.e., the allegations in the complaint must be

considered to be true.¹ Accordingly, we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times the Respondent, a corporation with an office and place of business in Country Club Hills, Illinois (Respondent's facility), has been engaged in the business of garbage hauling in the Chicagoland area.

During the past calendar year, a representative period, the Respondent, in conducting its business operations described above, purchased and received at its Country Club Hills, Illinois facility goods, products, and materials valued in excess of \$50,000 directly from points outside the State of Illinois.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Linda McGee	President
Jesse McGee	Vice President

The following employees of the Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(a) of the Act (the unit):

All full-time and regular part-time truck drivers employed by the Employer at its facility located in County Club Hills, Illinois; but excluding office clerical employees and guards, professional employees and supervisors as defined in the Act.

Since about November 1, 2010, and at all material times, the Respondent recognized the Union as the exclusive collective-bargaining representative of the unit. This recognition has been embodied in a collective-bargaining agreement effective by its terms from November 1, 2010, to September 30, 2013.

At all times since November 1, 2010, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

¹ See *Maislin Transport*, 274 NLRB 529 (1985).

About November 2013, the Respondent unilaterally ceased making required contributions to the Union's health and welfare fund and the Union's pension fund.

The subjects set forth above relate to wages, hours, and other terms and conditions of employment of the unit and are mandatory subjects for the purpose of collective bargaining. The Respondent engaged in the conduct described above without prior notice to the Union and without providing the Union an opportunity to bargain with the Respondent with respect to this conduct.

CONCLUSION OF LAW

By the conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(5) and (1) of the Act. The Respondent's unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(5) and (1) by failing and refusing to bargain with the Union as the collective-bargaining representative of the unit employees by, since about November 2013, unilaterally ceasing to make required contributions to the Union's health and welfare fund and the Union's pension fund, we shall order the Respondent to make all required contributions to the funds that have not been made, including any additional amounts due the funds, in accordance with *Merryweather Optical Co.*, 240 NLRB 1213, 1216 fn. 7 (1979). Further, the Respondent shall reimburse unit employees for any expenses ensuing from its failure to make any required contributions, as set forth in *Kraft Plumbing & Heating*, 252 NLRB 891, 891 fn. 2 (1980), enfd. mem. 661 F.2d 940 (9th Cir. 1981),² such amounts to be computed in the manner set forth in *Ogle Protection Service*, 183 NLRB 682 (1970), enfd. 444 F.2d 502 (6th Cir. 1971), with interest 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).

² To the extent an employee has made personal contributions to a fund that are accepted by the fund in lieu of the Respondent's delinquent contributions during the period of the delinquency, the Respondent will reimburse the employee, but the amount of such reimbursement will constitute a setoff to the amount that the Respondent otherwise owes to the fund.

ORDER

The National Labor Relations Board orders that the Respondent, Linda Construction, Inc., Country Club Hills, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain with Excavating, Grading, Asphalt, Private Scavengers, Automobile Sales-room Garage Attendants, and Linen and Laundry Local Union No. 731, affiliated with the International Brotherhood of Teamsters, as the exclusive collective-bargaining representative of the unit employees by unilaterally ceasing to make required contributions to the Union's health and welfare fund and pension fund. The unit is:

All full-time and regular part-time truck drivers employed by the Employer at its facility located in County Club Hills, Illinois; but excluding office clerical employees and guards, professional employees and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Make all required contributions to the Union's health and welfare fund and pension fund that have not been made since November 2013, including any additional amounts due the funds, as set forth in the remedy section of this decision.

(b) Reimburse unit employees for any expenses ensuing from the Respondent's failure to make the required payments to the funds, with interest, in the manner set forth in the remedy section of this decision.

(c) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(d) Within 14 days after service by the Region, post at its facility in Country Club Hills, Illinois, copies of the attached notice marked "Appendix."³ Copies of the no-

³ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals for the [] Circuit."

LINDA CONSTRUCTION, INC.

tice, on forms provided by the Regional Director for Region 13, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current and former unit employees employed by the Respondent at any time since about November 2013.

(e) Within 21 days after service by the Region, file with the Regional Director for Region 13 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. September 30, 2014

Kent Y. Hirozawa,	Member
Harry I. Johnson, III,	Member
Nancy Schiffer,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

ment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.'

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to bargain with Excavating, Grading, Asphalt, Private Scavengers, Automobile Salesroom Garage Attendants, and Linen and Laundry Local Union No. 731, affiliated with the International Brotherhood of Teamsters (the Union) as the exclusive collective-bargaining representative of our employees in the following unit by unilaterally ceasing to make required contributions to the Union's health and welfare fund and pension fund. The unit is:

All full-time and regular part-time truck drivers employed by the Employer at its facility located in County Club Hills, Illinois; but excluding office clerical employees and guards, professional employees and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL make all required contributions to the Union's health and welfare fund and pension fund that have not been made since November 2013, including any additional amounts due the funds, and WE WILL reimburse unit employees for any expenses ensuing from our failure to make the required payments, with interest.

LINDA CONSTRUCTION, INC.

The Board's decision can be found at www.nlrb.gov/case/13-CA-125200 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.



**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

LINDA CONSTRUCTION, INC.

Employer

and

Case 13-CA-125200

**EXCAVATING, GRADING, ASPHALT,
PRIVATE SCAVENGERS, AUTOMOBILE
SALESROOM GARAGE ATTENDANTS, and
LINEN AND LAUNDRY LOCAL UNION
NO. 731, affiliated with the INTERNATIONAL
BROTHERHOOD OF TEAMSTERS**

Union

COMPLIANCE SPECIFICATION AND NOTICE OF HEARING

The National Labor Relations Board issued its Order on September 30, 2014, granting General Counsel's Motion for Default Judgment. The Board directed Respondent Linda Construction, Inc., its officers, agents, successors, and assigns, to reimburse unit employees for any expenses ensuing from the Respondent's failure to make the required payments to the funds; and to make all required contributions to the Union's health and welfare fund and pension funds that have not been made since November 2013, including any additional amounts due the funds in accordance with *Merryweather Optical Co.*, 240 NLRB 1213, 1216, fn 7 (1979) and to reimburse unit employees for any expenses ensuing from its failure to make any required contributions suffered because of Respondent's failure to remit those funds in violation of Section 8(a)(1) and (5) of the National Labor Relations Act, as amended¹. On March 13, 2015, the United States Court of Appeals for the Seventh Circuit, the Court issued its Order granting the Board's application for summary enforcement.

As controversies have arisen over the amount of back contributions due the funds under the terms of the Board Order, the Regional Director of the National Labor Relations Board for Region 13, pursuant to the authority duly conferred upon him by the Board, hereby issues this Compliance Specification and Notice of Hearing and alleges that the Respondent has failed to fulfill its obligations to make whole the Pension and Health and Welfare Funds as follows:

¹ In accord with the methods set forth in *Kraft Plumbing & Heating*, 252 NLRB 891, 891 fn. 2 (1980), enfd. mem. 661 F.2d 940 (9th Cir. 1981) such amounts to be computed in the manner set forth in *Ogle Protection Service*, 183 NLRB 682 (1970), enfd. 444 F.2d 502 (6th Cir. 1971), with interest 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).

I

Each calendar quarter as described in the Specification consists of consecutive calendar months, beginning January 1, April 1, July 1, or October 1. Each complete calendar quarter consists of 13 weeks and/or an average of 65 working days. Each work week consists of one calendar week and/or an average of 5 working days. Each work week is equal to one Fund "contribution week."

II

(a) The back contribution period for the Local 731 International Brotherhood of Teamsters Garage Attendants Pension Fund, hereinafter "the Pension Fund," begins on November 2013, at which time Linda Construction, Inc., (Respondent) unilaterally ceased remitting Pension Fund contributions owed on behalf of its employees.

(b) The back contribution period continues to March, 2014 at which time Respondent ceased operations.

(c) Employee reimbursements and additional Pension Fund contributions may accrue in the event that it is discovered that Respondent has continued or resumed operations in its current form or disguised entity continuing its operations.

III

(a) An appropriate measure of the amount of Pension Fund contributions that Respondent should have paid is equal to the total number of reportable weeks each employee worked during each calendar month multiplied by the contribution rate as set forth in the parties' collective bargaining agreement and as modified by the "Notice of Hourly Wage and Fringe Benefit Increase Effective October 1, 2012."

(b) The total number of reportable weeks is established and set forth in the monthly reports² completed and delivered to the Union by Respondent for the calendar months of November, 2013 to March 2014.

(c) The total reportable weeks earned by each employee in each month and to be credited to the Pension Fund on their behalf are set forth opposite each employee's name in Columns C through G of Attachment A.

(d) The applicable rate established for the Pension Fund contributions are \$252.20 per reportable week.

(e) The total reportable weeks accrued to be credited to the Pension Fund in each month are totaled and set forth at the line designated "Total Weeks" in Columns C through G of Attachment A.

² The reports are completed on a single form entitled, "Report of Payments to the Local 731, I.B. Of T. Garage Attendants, Linen And Laundry Health And Welfare Fund - Local 731 I. B. Of T. Garage Attendants Pension Fund" and incorporate all reportable hours to each fund

IV

(a) The back contribution period for the Local 731, International Brotherhood of Teamsters Garage Attendants, Linen And Laundry Health And Welfare Fund hereinafter “the Health and Welfare Fund” begins on November 2013, at which time Linda Construction, Inc., (Respondent) unilaterally ceased remitting fund contributions owed on behalf of its employees.

(b) The back contribution period continues to March 2014 at which time Respondent ceased operations.

(c) Employee reimbursements and additional Health and Welfare Fund contributions may accrue in the event that it is discovered that Respondent has continued or resumed operations in its current form or disguised entity continuing its operations.

V

(a) An appropriate measure of the amount of Health and Welfare Fund contributions that Respondent should have paid is equal to the total number of reportable weeks each employee worked during each calendar month multiplied by the contribution rate as set forth in the parties’ collective bargaining agreement as modified by the “Notice of Hourly Wage and Fringe Benefit Increase Effective October 1, 2012.”

(b) The total number of reportable weeks is established and set forth in the monthly reports completed and delivered to the Union by Respondent for the calendar months of November, 2013 to March 2014.

(c) The total reportable weeks earned by each employee in each month and to be credited to the Health and Welfare Fund on their behalf are set forth opposite each employee’s name in Columns H through L of Attachment A.

(d) The applicable rate established for the Health and Welfare Fund contributions are \$282.35 per reportable week.

(e) The total reportable weeks accrued to be credited to the Health and Welfare Fund in each month are totaled and set forth at line designated “Total Weeks” in Columns H though L of Attachment A.

VI

In accordance with the methods set forth in the foregoing paragraphs II through V, the back fund contributions owed on behalf of each employee are calculated and set forth in Lines 21 at Columns G and L of Attachment A.

VII

(a) In accordance with the terms of the Collective Bargaining Agreement, Fund contributions are due and owing on the 20th day of the month following the month in which contribution weeks are accrued.

(b) The Health and Welfare Fund and the Pension Fund are entitled to receive 1% interest compounded monthly (12% per year) for delinquent contributions. The interest accrued through June, 2015 is calculated and set forth in Columns G and L at line 22 of Attachment A.

(c) In accordance with the Fund collections procedures, the Funds are entitled to liquidated damages equal to ten percent (10%) of the principal. The Liquidated Damages are calculated and set forth in Columns G and L at line 23 of Attachment A.

VIII

The Regional Director reserves the right to amend any or all provisions of this Specification by inclusion of information not now known to the Regional Director including any reimbursable expenses owed to employees as a result of Respondent's failure to make contributions for any time period after March 2014.

IX

Summarizing the facts and calculations specified above, the current obligation of the Respondent accrued to the date of the cessation of operations with interest and liquidated damages accrued through June 30, 2015, will be satisfied by payment of \$200,068.80, plus additional interest accrued to the date of final payment.

Local 731, I.B. Of T. Garage	\$105,676.59
Attendants, Linen And Laundry	
Health And Welfare Fund	
Local 731 I. B. Of T. Garage	\$94,392.20
Attendants Pension Fund	

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on Wednesday, September 30, 2015, at 11:00 a.m., and on consecutive days thereafter until concluded, at 209 South La Salle Street, Suite 900, Chicago, Illinois, a hearing will be conducted before a duly designated Administrative Law Judge of the National Labor Relations Board on the allegations set forth in the above Specification, at which time you will have the right to appear in person, or otherwise, and give testimony. Attached is Form 4668 Summary of Standard

Procedures in Formal Hearings Held Before the National Labor Relations Board in Unfair Labor Practice Proceedings as taken from the Board's Published Rules and Regulations, and Statement of Procedure.

ANSWER REQUIREMENT

YOU ARE FURTHER NOTIFIED THAT, pursuant to Section 102.56 of the Board's Rules and Regulations, the Respondent must file an answer to the specification. The answer must be **received by this office on or before July 27, 2015, or postmarked on or before July 26, 2015**. Respondent should file an original and four (4) copies of an answer to the Specification with this office and shall also serve a copy of the answer on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. A failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. When an answer is filed electronically, an original and four (4) paper copies must be sent to this office so that it is received no later than three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Specification are true. To the extent that an answer fails to deny allegations of the Specification in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, such allegations shall be deemed to be admitted as true and Respondent shall be precluded from introducing any evidence controverting them.

Dated at Chicago, Illinois this 6th day of July, 2015.

/s/ Peter Sung Ohr
Peter Sung Ohr, Regional Director
National Labor Relations Board
Region 13
209 South LaSalle Street, Suite 900
Chicago, Illinois 60604

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13

LINDA CONSTRUCTION, INC.

and

Case 13-CA-125200

EXCAVATING, GRADING, ASPHALT,
PRIVATE SCAVENGERS, AUTOMOBILE
SALESROOM GARAGE ATTENDANTS, and
LINEN AND LAUNDRY LOCAL UNION
NO. 731, affiliated with the INTERNATIONAL

BROTHERHOOD OF TEAMSTERS

**AFFIDAVIT OF SERVICE OF: Compliance Specification and Notice of Hearing
(with forms NLRB-4338 and NLRB-4668 attached)**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 6, 2015, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

Linda McGee , President
Linda Construction, Inc.
18633 Nightengale
Country Club Hills, IL 60478

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED**

Jessie L. McGee
Linda Construction, Inc.
18633 Nightengale
Country Club Hills, IL 60478

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED**

David P. Lichtman, Esq.
Dowd, Bloch, Bennett & Cervone
8 S. Michigan Avenue, Suite 1900
Chicago, IL 60603-3315

REGULAR MAIL

Teamsters Local Union No. 731
1000 Burr Ridge Pkwy., Suite 300
Burr Ridge, IL 60527-0845

CERTIFIED MAIL

July 6, 2015

Date

Kenneth Reed, Designated Agent of NLRB

Name

/s/ Kenneth Reed

Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 13-CA-125200

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Linda McGee , President
Linda Construction, Inc.
18633 Nightengale
Country Club Hills, IL 60478

Jessie L. McGee
Linda Construction, Inc.
18633 Nightengale
Country Club Hills, IL 60478

David P. Lichtman, Esq.
Dowd, Bloch, Bennett & Cervone
8 S Michigan Ave Ste 1900
Chicago, IL 60603-3315

Teamsters Local Union No. 731
1000 Burr Ridge Pkwy., Suite 300
Burr Ridge, IL 60527-0845

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.
- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 13

209 South LaSalle Street - Suite 900

Chicago, Illinois 60604

FAX (312) 886-1341
Telephone (312) 353-7586
www.nlr.gov

August 7, 2015

SENT VIA CERTIFIED MAIL

Jessie L. McGee
Linda Construction, Inc.
18633 Nightengale
Country Club Hills, IL 60478

Linda McGee, President
Linda Construction, Inc.
18633 Nightengale
Country Club Hills, IL 60478

Re: Linda Construction, Inc.
Case 13-CA-125200

Dear Mr. and Mrs. McGee:

On July 6, 2015, the Regional Director issued a Compliance Specification and Notice of Hearing in the above-captioned case. Pursuant to Section 102.56 of the Board's Rules and Regulations, you were required to file an Answer to the specification by no later than July 27, 2015. But as of this date, the Regional Office has still not received your Answer. Accordingly, please be advised that a Motion for Default Judgment will be filed with the Board, if an Answer is not received in the Regional Office by the close of business on August 14, 2015. For your convenience, I have enclosed a copy of the Compliance Specification and Notice of Hearing.

Thank you for your prompt attention to this matter.

Very truly yours,

J. Edward Castillo
Field Attorney

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

*Linda Construction, Inc.
 Attn: Linda and Jesse McGeer
 (Linda Construction, Inc.)
 13-CA-125200 (Ltr.) Crest Hill*

7008 2810 0000 3009 1799

4b. Service Type

- Registered Certified
- Express Mail Insured
- Return Receipt for Merchandise COD

7. Date of Delivery

5. Received By: (Print Name)

S. McGeer

6. Signature: (Addressee or Agent)

X S McGeer

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

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NATIONAL LABOR RELATIONS BOARD
 209 S. LaSalle Street - Suite 1000
 Chicago, Illinois 60604

REGION 13
 CHICAGO, IL

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that true copies of the attached **Motion to Transfer Proceedings to the Board and Motion for Default Judgment** have been served upon the following in the manner indicated this 27th day of August, 2015.

ELECTRONICALLY FILED:

Gary W. Shinnars, Executive Secretary
National Labor Relations Board
Office of Executive Secretary
1015 Half Street SE, Room 5011
Washington, DC 20570

VIA U.S. FIRST CLASS MAIL:

Linda McGee , President
Linda Construction, Inc.
18633 Nightengale
Country Club Hills, IL 60478

Jessie L. McGee
Linda Construction, Inc.
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Teamsters Local Union No. 731
1000 Burr Ridge Pkwy., Suite 300
Burr Ridge, IL 60527-0845

/s/ Elizabeth S. Cortez

Elizabeth S. Cortez
Counsel for the General Counsel
National Labor Relations Board Region 13
209 S. LaSalle Street, Suite 900
Chicago, Illinois 60604