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Linda Construction, Inc. and 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. Case 13-CA-125200

October 28, 2015

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS MISCIMARRA, HIROZAWA,
AND MCFERRAN

The 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 September 30, 2014, the National Labor Relations Board issued a Decision and Order¹ that, among other things, ordered Respondent Linda Construction, Inc. to make all required contributions to the union health and welfare fund and the union pension fund and to reimburse unit employees for any expenses ensuing from its failure to make any required contributions. On March 13, 2015, the United States Court of Appeals for the Seventh Circuit entered its judgment enforcing in its entirety the Board's Decision and Order.²

A controversy having arisen over the amount of contributions due the union funds, on July 6, 2015, the Regional Director issued a compliance specification and notice of hearing alleging the amounts 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, the Respondent failed to file an answer.

By letter dated August 7, 2015, the Region reminded the Respondent of the need to file an answer to the compliance specification, and indicated that if no answer was received by August 14, 2015, a motion for default judgment would be filed. Nonetheless, the Respondent again failed to file an answer.

On August 27, 2015, the General Counsel filed with the Board a Motion for Default Judgment, with exhibits attached. On September 1, 2015, the Board issued an order transferring the proceedings to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The

¹ 361 NLRB No. 56.

² 15-1125.

allegations in the motion and 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 any 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 General Counsel's Motion for Default Judgment. Accordingly, we conclude that the amounts to be paid to the Union funds are as stated in the compliance specification, and we will order the Respondent to pay those amounts to the funds, plus interest accrued to the date of payment.³

ORDER

The National Labor Relations Board orders that the Respondent, Linda Construction, Inc., Country Club Hills, Illinois, its officers, agents, successors, and assigns, shall make the payments due the following funds in the amounts set forth, plus interest accrued to the date of payment.

Local 731, IBT Garage Attendants, Linen and Laundry Health and Welfare Fund	\$105,676.60
Local 731 IBT Garage Attendants Pension Fund	\$94,392.20
TOTAL AMOUNT DUE:	\$200,068.80

³ The Regional Director for Region 13 reserved the right to amend the provisions of the compliance specification by inclusion of information not yet known, such as any reimbursable expenses owed to employees as a result of the Respondent's failure to make contributions for the time period after March 2014.

Dated, Washington, D.C. October 28, 2015

Philip A. Miscimarra, Member

Kent Y. Hirozawa, Member

Lauren McFerran, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD