



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
**OFFICE OF THE GENERAL COUNSEL**  
Washington, D.C. 20570

May 9, 2016

Leonard Green, Esquire  
Clerk, United States Court of  
Appeals for the Sixth Circuit  
540 Potter Stewart U.S. Courthouse  
100 East Fifth Street  
Cincinnati, OH 45202-3988

Re: *NLRB v. One Sustainable Method  
Recycling, LLC*, Board Case No. 15-CA-  
147008

Dear Mr. Green:

I am enclosing the Board's application for summary entry of a judgment enforcing the Board's order in this case, and a copy of a proposed judgment.

Please serve a copy of the application on Respondents, whose address appears on the service list. Additional copies are provided for service on the Respondent. I have served a copy of the Board's application and proposed judgment on each party admitted to participate in the Board proceedings, and their names and addresses also appear on the service list.

I am counsel of record for the Board, and all correspondence should be addressed to me. I would appreciate your furnishing the Board's Regional Director, whose name and address also appear on the service list, with a copy of all correspondence the Court sends to counsel in this case, and a copy of the judgment issued.

Very truly yours,

/s/ Linda Dreeben

Linda Dreeben  
Deputy Associate General Counsel  
NATIONAL LABOR RELATIONS BOARD  
1099 14th Street, N.W.  
Washington, D.C. 20570  
(202) 273-2960

cc: Service List

SERVICE SHEET

RESPONDENTS:

Sheri Mitchell, CEO  
One Sustainable Method Recycling, LLC  
8675 Park Laureate Drive, Apt. 115  
Louisville, KY 40220-7038

Tel: (501) 765-1944  
Cell: (502) 637-7550

THE BOARD IS NOT  
AWARE OF COUNSEL  
FOR RESPONDENT

CHARGING PARTY:

David Kollmann  
112 Shade Tree Ln. Lot 3  
Jacksonville, AR 72076-8848

Cell: (501) 634-6242  
Email: dkollmann85@yahoo.com

REGIONAL DIRECTOR:

M. Kathleen McKinney, Rgnl. Dir.  
National Labor Relations Board  
600 South Maestri Place , 7th Floor  
New Orleans, LA 70130-3413

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No.
v.	:	
	:	Board Case No.:
ONE SUSTAINABLE METHOD RECYCLING, LLC	:	15-CA-147008
	:	
Respondents	:	

APPLICATION FOR SUMMARY ENTRY OF A JUDGMENT  
ENFORCING AN ORDER OF  
THE NATIONAL LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States  
Court of Appeals for the Sixth Circuit:

The National Labor Relations Board, pursuant to Section 10(e) of the National Labor Relations Act, as amended (29 U.S.C. §§ 151, 160(e)), applies to this Court for summary entry of a judgment enforcing its order against One Sustainable Method Recycling, LLC (“Respondents”). The Board is entitled to summary enforcement of its order because Respondent failed to file an answer to the Board’s unfair labor practice complaint and the Board entered an order by default. In support, the Board shows:

**A. Jurisdiction of this Court**

This Court has jurisdiction over this application under Section 10(e) of the Act (29 U.S.C. § 160(e)). Venue is proper in this Circuit because the unfair labor

practices occurred in Kentucky. The Board's final order issued on December 14, 2015, and is reported at 363 NLRB No. 67.

## **B. Proceedings Before the Board**

1. On August 28, 2015, the General Counsel issued the complaint and notice of hearing in Case No. 15-CA-147008, charging Respondents with certain violations of the Act. The complaint, in part, advised the Respondents that under the Board's Rules (29 C.F.R. 102.20 and 102.21), the Respondents were required to file an answer by September 11, 2015, and that if the Respondents failed to file an answer, the allegations of the complaint would be deemed to be true.

2. Having not received an answer, counsel for the General Counsel, on September 22, 2015, sent Respondents a letter advising that if no answer was received by September 30, 2015, the Board's Regional Office would file a Motion for Default Judgment with the Board.

3. The Respondents did not file an answer.

4. On October 5, 2015, counsel for the General Counsel filed with the Board a Motion for Default Judgment based upon the Respondents' failure to file an answer to the complaint.

5. By order dated October 6, 2015, the Board transferred the case to itself and issued a Notice to Show Cause, giving Respondents until October 20, 2015, to

file with the Board in Washington, D.C., a response to the Motion for Default Judgment.

6. Respondents did not file a response. The allegations in the motion were therefore undisputed.

7. The Board, on December 14, 2015, issued its Decision and Order, granting the Motion for Default Judgment in the absence of good cause being shown for Respondents' failure to file a timely answer, and entering an appropriate order against the Respondents.

### **C. The Board Is Entitled to Summary Enforcement of Its Order**

On these facts, the Board is entitled to summary enforcement of its order against Respondent. Where a respondent in a Board proceeding fails to file an appropriate answer to the unfair labor practice complaint in a timely manner, the Board may, pursuant to Board Rule 102.20, absent a showing of "good cause," deem the complaint's allegations admitted, and then may enter an order, essentially by default, against the respondent. No cause for Respondents' failure to file an answer was alleged or shown here.

It is settled that the Board is entitled to have that default judgment summarily enforced. Under Section 10(e) of the Act (29 U.S.C. § 160(e)), no objection that has not been urged before the Board shall be considered by a court of appeals "unless the failure or neglect to urge such objection shall be excused

because of extraordinary circumstances.” This limitation is jurisdictional and its application is mandatory. *Woelke & Romero Framing v. NLRB*, 456 U.S. 645, 666-67 (1982). Interpreting that requirement, courts have consistently held that a respondent’s failure to assert any defense before the Board entitles the Board, absent extraordinary circumstances, to summary enforcement of its order. *See e.g., NLRB v. Mays Printing Co.*, 452 F.App’x 593 (6th Cir. 2009). *See also; Mt. Clemens Gen. Hosp. v. NLRB*, 328 F.3d 837, 843 (6th Cir. 2003); *Father and Sons Lumber v. NLRB*, 931 F.2d 1093, 1095-96, 1097 (6th Cir. 1991); *N.L.R.B. v. Innkeepers of Ohio, Inc.*, 596 F.2d 177, 178 (6th Cir. 1979); *NLRB v. Aaron Convalescent Home*, 479 F.2d 736, 738-39 (6th Cir. 1973); *NLRB v. Dane County Dairy*, 795 F.2d 1313, 1319-21 (7th Cir. 1986); *Oldwick Materials, Inc. v. NLRB*, 732 F.2d 339, 341 (3d Cir. 1984). No such circumstances have been alleged or shown here.

WHEREFORE, the Board respectfully requests that the Court, after serving notice of the filing of this application on Respondents, enter judgment summarily enforcing the Board’s order in full. A proposed judgment is attached.

Dated in Washington, D.C.  
this 9th day of May, 2016

/s/ Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1099 14th Street, N.W.  
Washington, D.C. 20570

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

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	:	
Respondents	:	

JUDGMENT ENFORCING AN ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD

Before:

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondents, One Sustainable Method Recycling, LLC, their officers, agents, successors, and assigns, enforcing its order dated December 14, 2015, in Case No. 15-CA-147008, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondents, One Sustainable Method Recycling, LLC, their officers, agents, successors, and assigns, shall abide by said order (See attached Order and Appendix).

ENTERED BY ORDER OF THE COURT

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Clerk

# NATIONAL LABOR RELATIONS BOARD

v.

## ONE SUSTAINABLE METHOD RECYCLING, LLC

### ORDER

One Sustainable Method Recycling, LLC, Little Rock, Arkansas and Louisville, Kentucky, its officers, agents, successors, and assigns, shall

1. Cease and desist from
  - (a) Telling employees that they can quit if they do not like the Respondent's policies and procedures.
  - (b) Prohibiting its employees from taking pictures at its facility because the Respondent believes they are engaging in protected concerted activities.
  - (c) Threatening its employees with arrest or termination because the Respondent believes they are engaging in protected concerted activities.
  - (d) Causing employees to quit by threatening them with property damage, arrest, and termination if they do not cease engaging in protected concerted activities.
  - (e) 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) Within 14 days from the date of this Order, offer David Kollmann full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.
  - (b) Make Kollmann whole for any loss of earnings and other benefits suffered as a result of its unlawful conduct, in the manner set forth in the remedy section of this decision.
  - (c) Compensate Kollmann for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file a report with the Social Security Administration allocating the backpay award to the appropriate calendar quarters.
  - (d) Within 14 days from the date of this Order, remove from its files any and all reference to the unlawful discharge of Kollmann and, within 3

days thereafter, notify him in writing that this has been done and that its unlawful conduct will not be used against him in any way.

- (e) 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, 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.
- (f) Within 14 days after service by the Region, post at its facilities in Little Rock, Arkansas and Louisville, Kentucky copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 15, 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 facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 21, 2014.
- (g) Within 21 days after service by the Region, file with the Regional Director for Region 15 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.

## **APPENDIX**

### **NOTICE TO EMPLOYEES**

**POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES  
COURT OF APPEALS ENFORCING AN 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

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 tell employees that they can quit if they do not like our policies and procedures.

WE WILL NOT prohibit employees from taking pictures at our facility because we believe that they are engaging in protected concerted activities.

WE WILL NOT threaten employees with arrest or termination because we believe they are engaging in protected concerted activities.

WE WILL NOT cause employees to quit by threatening them with property damage, arrest, and termination if they do not cease engaging in protected concerted activities.

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, within 14 days from the date of the Board's Order, offer David Kollmann full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

WE WILL make David Kollmann whole for any loss of earnings and other benefits resulting from our unlawful conduct, plus interest.

WE WILL compensate Kollmann for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and WE WILL file a report with the Social

Security Administration allocating the backpay award to the appropriate calendar quarters.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful discharge of Kollmann, and WE WILL, within 3 days thereafter, notify him in writing that this has been done and that our unlawful conduct will not be used against him in any way.

ONE SUSTAINABLE METHOD RECYCLING, LLC

The Board's decision can be found at [www.nlr.gov/case/15-CA-147008](http://www.nlr.gov/case/15-CA-147008) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



UNITED STATES COURT OF APPEALS  
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CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board's application for summary entry of judgment, appearance of counsel form, and proposed judgment, in the above-captioned case, has this day been served by first class mail upon the following party at the address listed below:

Sheri Mitchell, CEO  
One Sustainable Method Recycling, LLC  
8675 Park Laureate Drive, Apt. 115  
Louisville, KY 40220-7038

/s/ Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1099 14th Street, N.W.  
Washington, D.C. 20570

Dated at Washington, D.C.  
this 9th day of May, 2016