

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
NEW YORK BRANCH OFFICE**

**M.D.V.L. INC., d/b/a DENNY'S  
TRANSMISSION SERVICE**

**and**

**Case No. 28-CA-140217**

**RON MILLER, An Individual**

**and**

**Case No. 28-CA-140237**

**DALE WEIGHTMAN, An Individual**

*Sarah Demirok, Esq.*, Counsel for the General Counsel.  
*Dan Bonnett, Esq.*, Counsel for the Charging Party  
Michael Van Loo, Pro Se, for the Respondent.

**DECISION**

**Statement of the Case**

**Joel P. Biblowitz, Administrative Law Judge:** I heard this case in Phoenix, Arizona on October 12, 2016 at which time Counsel for the General Counsel moved for default judgment due to the fact that M.D.V.L. Inc., d/b/a Denny's Transmission Service, herein called the Respondent, failed to file an answer to the Compliance Specification issued by the region.

On May 11, 2016, the National Labor Relations Board issued a Decision and Order at 356 NLRB No. 8 in this matter ordering the Respondent, its officers, agents, successors and assigns to take the following affirmative action to effectuate the policies of the Act: 1. Offer Dale Weightman full reinstatement to his former job, or if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or other rights and privileges previously enjoyed; and 2. Make Weightman whole for any loss of earnings and other benefits suffered as a result of the discrimination against him by payment to him of backpay, interest and, if any, adverse tax consequences.

A Compliance Specification and Notice of Hearing issued on August 10, 2016 finding the net backpay and expenses due to Weightman was \$121,771. The Compliance Specification also stated that an Answer had to be filed by the Respondent by August 31, 2016.

As stated in General Counsel's Notice of Intent to Move for Default Judgment Before the Administrative Law Judge, because of Respondent's prior conduct of refusing service of documents from the region<sup>1</sup>, on August 10, 2016 the region served the Compliance Specification by hand on the Respondent's place of business. An affidavit of service of Joel

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<sup>1</sup> On May 24, United Parcel Service returned a delivery to the region stating: "The receiver does not want the product and refused the delivery." Presumably, the "product" was the Board's Decision.

Ruiz-Lopez, a Labor Management Relations Assistant for the Board states in the affidavit that he identified himself to the receptionist as a Board agent, handed her the Compliance Specification, and told her that he was there to serve it on the owner. She told him to wait, and she returned with a male who identified himself as "Shawn," who was holding the Compliance Specification, and said that he was in the wrong location because his company was Denny's Transmission Specialist, not M.D.V.L., Inc., d/b/a Denny's Transmission Service. Lopez replied that he was there to serve the Compliance Specification not to discuss the name of the employer. Shawn said that he was not touching the document and that he could throw it away for all he cared. Lopez left the Compliance Specification on the counter and left the premises.

On September 14, 2016, the region served the Compliance Specification at the office and place of business of the Respondent's registered agent. In addition, on September 29 and 30, 2016 Counsel for the General Counsel made numerous attempts to contact the Respondent by telephone. While some of the phone lines were inoperable, the others could not receive voice mails.

When the hearing opened on September 13, 2016, Respondent had not yet filed an Answer to the Compliance Specification. At the hearing, Mr. Van Loo admitted that his statutory agent was served with the Compliance Specification and mailed it to him, but stated that he was no longer an officer of the Respondent, that he was a stockholder.

As the region went to great lengths to serve the Respondent, and as the Respondent failed to file an Answer to the Compliance Specification which issued on August 10, 2016, I granted Counsel for the General Counsel's Motion for Default Judgment and find that the allegations contained therein are true and the Respondent must reinstate Weightman to his former job and to pay him the net backpay due to him of \$121,771.

**Dated, Washington, D.C. October 19, 2016**

  

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**Joel P. Biblowitz**  
**Administrative Law Judge**