



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

February 22, 2018

Clerk United States Court of
Appeals for the Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th St., Rm 24.329
St. Louis, MO 63102

Re: *NLRB v. Premier Environmental
Solutions, LLC*, Board No. 14-CA-198879

Dear Clerk:

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

Please serve a copy of the application on Respondent, whose address appears on the service list. 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
1015 Half Street, S.E.
Washington, D.C. 20570
(202) 273-2960

cc & documents to: Service List

SERVICE LIST

RESPONDENT:

Duane Jones, President
Premier Environmental Solutions, LLC
41105 Technology Park Dr.
Sterling Heights, MI 48314-4155

Phone: (586) 977-6471
Fax: (586) 977-6470
Email: djones@premierenvironmental.net

CHARGING PARTY:

Alexander Waschneck
Teamsters Local Union No. 838, affiliated
with International Brotherhood of Teamsters
4501 Emanuel Cleaver II Blvd.
Kansas City, MO 64130-2371

Phone: (816) 924-3460
Fax: (816) 924-3845
Email: alex@kcteamsters.com

REGIONAL DIRECTOR:

Leonard J. Perez
National Labor Relations Board
1222 Spruce St., Rm. 8.302
St. Louis, MO 63103-2829

Phone: (314) 539-7770

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

| | | |
|--------------------------------------|---|-----------------|
| NATIONAL LABOR RELATIONS BOARD | : | |
| | : | |
| Petitioner | : | No. |
| v. | : | |
| | : | Board Case No.: |
| PREMIER ENVIRONMENTAL SOLUTIONS, LLC | : | 14-CA-198879 |
| | : | |
| Respondent | : | |

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 Eighth Circuit:

The National Labor Relations Board (the “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 Premier Environmental Solutions, LLC (“Respondent”). The Board is entitled to summary enforcement 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 Missouri. The Board's final order issued on January 25, 2018, and is reported at 366 NLRB No. 8.

B. Proceedings Before the Board

1. On August 25, 2017, the Regional Director in Region 14 issued in case no. 14-CA-198879 a complaint, compliance specification, and notice of hearing and, on August 28, 2017, an amendment to the complaint, compliance specification, and notice of hearing were issued, charging Respondent with certain violations of the Act. The complaint, in part, advised the Respondent that under the Board's Rules (29 C.F.R. 102.20, 102.21 and 102.56), the Respondent was required to file an answer September 18, 2017, and that if the Respondent failed to file an answer, the allegations of the complaint may be deemed to be true.

2. Having not received an answer, counsel for the General Counsel, on September 19, 2017, sent the Respondent a letter advising that if no answer was received by September 26, 2017, the Board's Regional Office would file a Motion for Default Judgment with the Board.

3. The Respondent did not file an answer.

4. On September 28, 2017, counsel for the Acting General Counsel filed with the Board a Motion for Default Judgment based upon the Respondent's failure to file an answer.

5. By order dated October 2, 2017, the Board transferred the case to itself and issued a Notice to Show Cause, giving Respondent until October 16, 2017, to file with the Board in Washington, D.C., a response to the Motion for Default Judgment.

6. Respondent did not file a response.

7. In the absence of good cause being shown for Respondent's failure to file an answer, on January 25, 2018, the Board issued its Decision and Order, granting the Motion for Default Judgment, and entering an appropriate order against the Respondent.

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 Respondent's 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.” 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., Father and Sons Lumber v. NLRB*, 931 F.2d 1093, 1095-96, 1097 (6th Cir. 1991); *NLRB v. Continental Hagen Corp.*, 932 F.2d 828, 830 (9th Cir. 1991); *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); *NLRB v. Aaron Convalescent Home*, 479 F.2d 736, 738-39 (6th Cir. 1973). 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 Respondent, enter judgment summarily enforcing the Board’s order in full. A proposed judgment is attached.

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, S.E.
Washington, D.C. 20570

Dated in Washington, D.C.
this 22nd day of February, 2018

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

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| NATIONAL LABOR RELATIONS BOARD | : | |
| | : | |
| Petitioner | : | No. |
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| | : | Board Case No.: |
| PREMIER ENVIRONMENTAL SOLUTIONS, LLC | : | 14-CA-198879 |
| | : | |
| Respondent | : | |

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 Premier Environmental Solutions, LLC, its officers, agents, successors, and assigns, enforcing its order dated January 25, 2018, reported at 366 NLRB No. 8, in Case No. 14-CA-198879, and the Court having considered the same, it is hereby:

ORDERED AND ADJUDGED by the Court that the Respondent, Premier Environmental Solutions, LLC, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order, Appendix and Attachment A).

Mandate shall issue forthwith.

DATED:

NATIONAL LABOR RELATIONS BOARD

v.

PREMIER ENVIRONMENTAL SOLUTIONS, LLC

ORDER

Premier Environmental Solutions, LLC, Sterling Heights, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

- (a) Failing to bargain collectively and in good faith with Teamsters Local Union No. 838, affiliated with International Brotherhood of Teamsters (the Union), as the exclusive collective-bargaining representative of the unit employees by, without the Union's consent, failing to continue in effect the terms and conditions of the collective-bargaining agreement effective since January 7, 2015, by (1) failing to pay unit employees according to the terms of the agreement; (2) deducting union dues from unit employees' paychecks in excess of the amounts provided for in the agreement, and (3) failing to remit, as provided for in the agreement, unit employees' union dues and/or initiation fees that were properly deducted from their paycheck. The unit is:

All full-time and regular part-time warehouse equipment operators employed by the Respondent in the Recycle Center at the Ford Kansas City Assembly Plant located in Kansas City, Missouri.

- (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 unit employees whole for unpaid wages and excess deductions for union dues in the amounts set forth in Attachment A to this decision, plus interest accrued to the date of payment, and minus tax withholding required by Federal and State laws, as set forth in the remedy section of this decision.

- (b) Compensate unit employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 14, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar year.
- (c) Remit to the Union unit employees' union dues and/or initiation fees that were properly deducted from their paychecks in the amount of \$1158, as set forth in Attachment A to this decision, with interest in the manner set forth in the remedy section of this decision.
- (d) Within 14 days after service by the Region, duplicate and mail, at its own expense and after being signed by the Respondent's authorized representative, copies of the attached notice marked "Appendix" to all employees who were employed by the Respondent at its Kansas City, Missouri facility at any time since January 1, 2017. In addition to physical mailing 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.
- (e) Within 21 days after service by the Region, file with the Regional Director for Region 14 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 MEMBERS AND EMPLOYEES

MAILED 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 fail to bargain collectively and in good faith with Teamsters Local Union No. 838, affiliated with International Brotherhood of Teamsters (the Union), as the exclusive collective-bargaining representative of the unit employees by, without the Union's consent, failing to continue in effect the terms and conditions of the collective-bargaining agreement effective since January 7, 2015, by (1) failing to pay unit employees according to the terms of the agreement; (2) deducting union dues from unit employees' paychecks in excess of the amounts provided for in the agreement, and (3) failing to remit, as provided for in the agreement, unit employees' union dues and/or initiation fees that were properly deducted from their paycheck. The unit is:

All full-time and regular part-time warehouse equipment operators employed by the Respondent in the Recycle Center at the Ford Kansas City Assembly Plant located in Kansas City, Missouri.

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 unit employees whole for unpaid wages and excess deductions for union dues in the amounts set forth in Attachment A to the Board's decision, plus interest accrued to the date of payment, and minus tax withholding required by Federal and State laws.

WE WILL compensate unit employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 14, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar year.

WE WILL remit to the Union unit employees' union dues and/or initiation fees that were properly deducted from their paychecks in the amount of \$1158, as set forth in Attachment A to this decision, with interest in the manner set forth in the remedy section of this decision.

PREMIER ENVIRONMENTAL SOLUTIONS, LLC

The Board's decision can be found at <http://www.nlr.gov/case/14-CA-198879> 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.



ATTACHMENT A

| Unit Employee/ Charging Party | Union Dues (Refund to Employees) | Union Dues (Remit to Union) | Unpaid Wages |
|----------------------------------|--|-----------------------------------|-----------------|
| Teamsters Local Union No. 838 | | \$1158.00 | |
| Armstrong, John | \$107.00 | | \$500.00 |
| Cady, Brent | 107.00 | | |
| James, Joseph | 80.00 | | 575.00 |
| Luna, Brian | 80.00 | | |
| Mcquillen, Holden | 107.00 | | 401.75 |
| Norman, Andrew | 80.00 | | 913.28 |
| Short, Kevin | 107.00 | | 460.00 |
| Stigall, Miles | 107.00 | | 650.00 |
| Stone, Cody | 107.00 | | |
| Vanwinkle, Victor | 80.00 | | 502.04 |
| Wilson, Darren | 80.00 | | |
| | \$1,042.00 | \$1158.00 | \$4002.07 |

UNITED STATES COURT OF APPEALS
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| Respondent | : | |

CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board's application for summary entry of judgment 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:

Duane Jones, President
Premier Environmental Solutions, LLC
41105 Technology Park Dr
Sterling Heights, MI 48314-4155

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, S.E.
Washington, D.C. 20570

Dated at Washington, D.C.
this 22nd day of February, 2018