



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

July 6, 2018

Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

*Re: NLRB v. Campaign for the Restoration
and Regulation of Hemp, THCF, and Presto
Quality Care Corporation, as single and/or
joint employers, Board Case No. 19-CA-
143377*

Dear Ms. Dwyer:

On February 27, 2017, this Court entered judgment in No. 16-71753 enforcing the Board's initial order. A controversy having arisen over the amount due under the Board's order, the Regional Director issued a compliance specification and notice of hearing on July 18, 2017. The Board issued its Supplemental Decision and Order determining the amount due on February 5, 2018.

The Board now wishes to obtain enforcement of its Supplemental Decision and Order. Please serve a copy of the application on Respondent, whose addresses appear 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 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:

Douglas Paul Stanford
Campaign for the Restoration and
Regulation of Hemp, THCF, and
Presto Quality Care Corporation
2712 NE Sandy Blvd.
Portland, OR 97232

Phone: (503) 235-4606
Email: dpaulstanford@gmail.com

RESPONDENT'S COUNSEL:

Ann B. Witte, Attorney
4605 NE Fremont St Ste 201
Portland, OR 97213-1715

Phone: (503) 477-4690
Fax: (877) 751-6922
Email: awitteatty@gmail.com

RESPONDENT:

Douglas Paul Stanford
Campaign for the Restoration and
Regulation of Hemp, THCF, and
Presto Quality Care Corporation
105 SE 18th Ave.
Portland, OR 97214

Phone: (503) 235-4606
Email: dpaulstanford@gmail.com

CHARGING PARTY:

Matthew Marino
2249 E Burnside St.
c/o Industrial Workers of the World
Portland, OR 97214-1653

Mobile Phone: (202) 355-5021
Email: mrmarino88@aol.com

REGIONAL DIRECTOR:

Ronald K. Hooks, Rgnl. Dir.
National Labor Relations Board
915 2nd Avenue – Room 2948
Seattle, WA 98174-1078

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	
v.	:	No.
	:	
CAMPAIGN FOR THE RESTORATION AND	:	
REGULATION OF HEMP, THCF, AND PRESTO	:	Board Case No.:
QUALITY CARE CORPORATION, AS SINGLE	:	19-CA-143377
AND/OR JOINT EMPLOYERS	:	
	:	
Respondent	:	

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

To the Honorable, the Judges of the United States
Court of Appeals for the Ninth 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 Supplemental Order against Respondent. The Board is entitled to summary enforcement of its Supplemental Order because Campaign for the Restoration and Regulation of Hemp, THCF, and Presto Quality Care Corporation, as Single and/or Joint Employers (Respondent), failed to file an answer to the Board’s compliance specification 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 Oregon. The Board's final order issued on February 5, 2018, and is reported at 366 NLRB No. 15.

B. Proceedings Before the Board

1. The underlying controversy was brought before the Court by the Board's application for enforcement of its Order issued January 28, 2016. That order directed Respondent, in part, to make whole certain employees for any loss of earnings or benefits they may have suffered by reason of the discrimination against them. The Court entered its judgment enforcing the Board's Order in full in No. February 27, 2017, on 16-71753.

2. A controversy having arisen over the amount of backpay due discriminatees under the terms of the Board's order, the Regional Director issued and served on Respondent a compliance specification and notice of hearing on July 18, 2017, alleging the amount of backpay due under the Board's Order. The specification advised Respondent that, under the Board's Rules (29 C.F.R. 102.56), it was required to file an answer by August 8, 2017, and that if it failed to file an answer, the allegations of the specification may be deemed to be true and

Respondent would be precluded from introducing any evidence controverting them.

3. On August 23, 2017, the Region advised Respondent that no answer to the compliance specification had been received and issued an Order Extending Time for Filing Answer to Compliance Specification which provided Respondent until September 6, 2017, to file its Answer. Respondent did not file an answer.

4. On September 7, 2017, the General Counsel filed with the Board a Motion for Default Judgment based on Respondent's failure to file an answer to the compliance specification. On September 11, 2017, the Board issued an order, transferring the proceeding to itself and a Notice to Show Cause, giving Respondent until September 25, 2017, to file with the Board in Washington, D.C., a response to the motion for default judgment.

5. Respondent did not file a response.

6. On February 5, 2018, the Board granted the Motion for Default Judgment and issued its Supplemental Decision and Order. The order directed Respondent to make whole the named individual, by paying him \$18,000, plus interest accrued to the date of payment, as prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010), minus tax withholdings required by Federal and State laws.

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

On these facts, the Board is entitled to summary enforcement of its supplemental order against Respondent. Where a respondent in a Board proceeding fails to file an appropriate answer to the compliance specification in a timely manner, the Board may, pursuant to Board Rule 102.56(c), find the specification to be true and enter an order, essentially by default, against the respondent. The Board, further, 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., 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); *See, e.g., NLRB v. Nevis Indus.*, 647 F.2d 905, 908 (9th Cir. 1981); *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
(202) 273-2960

Dated in Washington, D.C.
this 6th day of July, 2018

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	
v.	:	No.
	:	
CAMPAIGN FOR THE RESTORATION AND	:	
REGULATION OF HEMP, THCF, AND PRESTO	:	Board Case No.:
QUALITY CARE CORPORATION, AS SINGLE	:	19-CA-143377
AND/OR JOINT EMPLOYERS	:	
	:	
Respondent	:	

JUDGMENT ENFORCING A SUPPLEMENTAL ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

Before:

This Court having on February 27, 2017, in No. 16-71753, entered its judgment enforcing in full the Order of the National Relations Board in Board Case No. 19-CA-143377 the Board on February 5, 2018, issued its Supplemental Decision and Order fixing the amount due and having thereafter applied to this Court for summary entry of a judgment specifying the amount due:

IT IS HEREBY ORDERED AND ADJUDGED by the Court that the Respondent, Campaign for the Restoration and Regulation of Hemp, THCF, and Presto Quality Care Corporation, as Single and/or Joint Employers, its officers, agents, successors, and assigns, paying him \$18,000, plus interest accrued to the date of payment, as prescribed in *New Horizons*, 283 NLRB 1173 (1987),

compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010), minus tax withholdings required by Federal and State laws.¹

Endorsed, Judgment Filed and Entered

/s/ Molly Dwyer
Molly Dwyer
Cler

¹ This amount does not yet include any excess tax. As set forth in the compliance specification, the Respondent is also liable for any adverse tax consequences for Marino receiving a lump-sum backpay award. Although the Compliance Specification calculated the adverse tax consequences, that amount may be updated to reflect the actual date of payment. Any adverse tax consequences shall be reported in accordance with *AdvoServ of New Jersey, Inc.*, 363 NLRB No. 143 (2016); *Don Chavas, LLC d/b/a Tortillas Don Chavas*, 361 NLRB 101 (2014).

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	
v.	:	No.
	:	
CAMPAIGN FOR THE RESTORATION AND	:	
REGULATION OF HEMP, THCF, AND PRESTO	:	Board Case No.:
QUALITY CARE CORPORATION, AS SINGLE	:	19-CA-143377
AND/OR JOINT EMPLOYERS	:	
	:	
Respondent	:	

CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board’s application for summary entry of judgment, proposed judgment and mediation questionnaire in the above-captioned case, has this day been served by first class mail upon the following parties at the addresses listed below:

Douglas Paul Stanford
CRRH, THCF and Presto
2712 NE Sandy Blvd.
Portland, OR 97232

Ann B. Witte, Attorney
4605 NE Fremont St Ste 201
Portland, OR 97213-1715

Douglas Paul Stanford
CRRH, THCF and Presto
105 SE 18th Ave.
Portland, OR 97214

/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

Dated in Washington, D.C.
this 6th day of July, 2018