

MANDATE

United States Court of Appeals

FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 7th day of August, two thousand eighteen.

Present:

Robert A. Katzmann,
Chief Judge,
Dennis Jacobs,
José A. Cabranes,
Circuit Judges.

NATIONAL LABOR RELATIONS BOARD)	
)	
	Petitioner)	No. 18-1459
	v.)	
)	Board Case No.:
J & K FLORAL USA, INC.)	02-CA-185241
)	
	Respondent)	

JUDGMENT ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, J & K Floral USA, Inc., its officers, agents, successors, and assigns, enforcing its order dated March 23, 2018, in Case No. 02-CA-185241, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, J & K Floral USA, Inc., its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Mandate shall issue forthwith.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk


Catherine O'Hagan Wolfe



A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit


Catherine O'Hagan Wolfe



NATIONAL LABOR RELATIONS BOARD

v.

J & K FLORAL USA, INC.

ORDER

J & K Floral USA, Inc., Clifton, New Jersey, its officers, agents, successors, and assigns shall

1. Cease and desist from
 - (a) Reducing employees' wages because they engaged in protected concerted activities.
 - (b) Terminating employees because they have engaged in protected concerted activities.
 - (c) Interrogating employees about their protected concerted activities.
 - (d) Promising employees benefits on the condition that they refrain from 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 Salvador Campos Benitez, Francisco Garcia Castro, Nicolas Garcia Hernandez, Ruben Lopez, Nahu Armando Ceballos Palma, and Ricardo Agustin Santiago full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.
 - (b) Make Salvador Campos Benitez, Francisco Garcia Castro, Nicolas Garcia Hernandez, Ruben Lopez, Nahu Armando Ceballos Palma, and Ricardo Agustin Santiago whole for any loss of earnings and other benefits they may have suffered as a result of the unlawful reduction of their wages, in the manner set forth in the remedy section of this decision.

- (c) Make Salvador Campos Benitez, Francisco Garcia Castro, Nicolas Garcia Hernandez, Ruben Lopez, Nahu Armando Ceballos Palma, and Ricardo Agustin Santiago whole for any loss of earnings and other benefits they may have suffered as a result of their unlawful discharges, in the manner set forth in the remedy section of this decision.
- (d) Compensate Salvador Campos Benitez, Francisco Garcia Castro, Nicolas Garcia Hernandez, Ruben Lopez, Nahu Armando Ceballos Palma, and Ricardo Agustin Santiago for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 2, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar year for each employee.
- (e) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discipline and discharges of Salvador Campos Benitez, Francisco Garcia Castro, Nicolas Garcia Hernandez, Ruben Lopez, Nahu Armando Ceballos Palma, and Ricardo Agustin Santiago, and within 3 days thereafter, notify the employees in writing that this has been done and that the unlawful discipline and discharges will not be used against them in any way.
- (f) Preserve and, within 14 days of 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.
- (g) Within 14 days of service by the Region, post at its Clifton, New Jersey facility copies of the attached notice marked "Appendix" in both English and Spanish. Copies of the notice, in English and Spanish, on forms provided by the Regional Director for Region 2, 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 facility 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 August 1, 2016.

- (h) Within 21 days after service by the Region, file with the Regional Director for Region 2 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 reduce your wages because you engaged in protected concerted activities.

WE WILL NOT terminate you because you have engaged in protected concerted activities.

WE WILL NOT interrogate you about your protected concerted activities.

WE WILL NOT promise you benefits on the condition that you refrain from 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 Salvador Campos Benitez, Francisco Garcia Castro, Nicolas Garcia Hernandez, Ruben Lopez, Nahu Armando Ceballos Palma, and Ricardo Agustin Santiago full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Salvador Campos Benitez, Francisco Garcia Castro, Nicolas Garcia Hernandez, Ruben Lopez, Nahu Armando Ceballos Palma, and Ricardo Agustin Santiago whole for any loss of earnings and other bene-fits resulting from our unlawful reduction of their wages, plus interest.

WE WILL make Salvador Campos Benitez, Francisco Garcia Castro, Nicolas Garcia Hernandez, Ruben Lopez, Nahu Armando Ceballos Palma, and Ricardo Agustin Santiago whole for any loss of earnings and other bene-fits resulting from their discharge, less any net interim earnings, plus interest, and WE WILL also make such em-ployees whole for reasonable search-for-work and inter-im employment expenses, plus interest.

WE WILL compensate Salvador Campos Benitez, Francisco Garcia Castro, Nicolas Garcia Hernandez, Ruben Lopez, Nahu Armando Ceballos Palma, and Ricardo Agustin Santiago for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and WE WILL file with the Regional Director for Region 2, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar year for each employee.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlaw-ful discharges of Salvador Campos Benitez, Francisco Garcia Castro, Nicolas Garcia Hernandez, Ruben Lopez, Nahu Armando Ceballos Palma, and Ricardo Agustin Santiago, and WE WILL, within 3 days thereafter, notify them in writing that this has been done and that the dis-charges will not be used against them in any way.

J & K FLORAL USA, INC.

The Board's decision can be found at www.nlr.gov/case/02-CA-185241 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.

